

Pennsylvania

therefrom arising shall be appropriated towards paying for the lands to be purchased and the new court house and prison to be built in the said place so as aforesaid to be provided.

[Section IV.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That for the defraying the remainder of the expenses and charge of purchasing the land, building and erecting the said court house and prison, it shall and may be lawful for the commissioners and assessors of said county, or a majority of them, to assess and levy so much money as the said trustees, or any four of them, shall judge necessary for paying the remainder aforesaid, of purchasing the land and finishing the said court house and prison, and they are hereby required so to do.

Passed March 20, 1780. See the Acts of Assembly passed March 22, 1784, Chapter 1081; March 30, 1785, Chapter 1152; March 18, 1786, Chapter 1215; September 25, 1786, Chapter 1247; September 26, 1789, Chapter 1443; March 12, 1800, Chapter 2125. Recorded L. B. No. 1, p. 373, &c.

CHAPTER CMII.

AN ACT FOR THE REGULATION OF THE MILITIA OF THE COMMONWEALTH OF PENNSYLVANIA.

(Section I, P. L.) Whereas a militia law founded upon just and equitable principles hath been ever regarded as the best security of liberty, and the most effectual means of drawing forth and exerting the natural strength of a state:

(Section II, P. L.) And whereas a well regulated militia is the only safe and constitutional method of defending a free state, as the necessity of keeping up a standing army, especially in times of peace, is thereby superceded:

(Section III, P. L.) And whereas the militia law of this commonwealth enacted by the general assembly the seventeenth day of March, one thousand seven hundred and seventy-seven,

from a change of circumstances and other causes, hath become insufficient to answer the purposes aforesaid, which renders it highly necessary that a new law should be enacted:

Therefore:

[Section I.] (Section IV, P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That the president in council or, in his absence, the vice-president in council, of this commonwealth shall appoint and commissionate one reputable freeholder in the city of Philadelphia, and one in each county within this state to serve as lieutenants of the militia for the said city and counties respectively; and, also, any number of persons not exceeding two for the said city, and in the several counties any number not exceeding the number of battalions now or to be hereafter formed, to serve as sub-lieutenants in the said city and counties respectively, who, besides the powers which are given him and them by this act, shall have the title and rank which the president in council or, in his absence, the vice-president in council shall confer, which said lieutenant or, in his absence or incapacity, two or more sub-lieutenants shall have full power and authority to do and perform all and singular the duties required of the said lieutenants by this act.

[Section II.] (Section V, P. L.) And be it enacted by the authority aforesaid, That the lieutenants and sub-lieutenants, before they enter upon the execution of their offices, respectively, shall give bond to the treasurer of the county in which they severally reside, in the name of the president or commander-in-chief of the state, with one sufficient surety in the sum of twenty thousand pounds, conditioned for the faithful accounting for and paying all the moneys which shall come to their hands by virtue of this act when thereunto lawfully required. And that the public bonds given or to be given by the treasurer of the state or county treasurers for the due discharge of their respective offices shall be deemed to extend to the faithful performance of the trust hereby committed to them respectively.

[Section III.] (Section VI, P. L.) And be it further enacted

by the authority aforesaid, That the said lieutenant or sub-lieutenants (once in every year) shall issue his or their warrants to the captain or commanding officer for the time being of each company of the several battalions in the said city and counties respectively, or to some other suitable person, commanding him, in the name of the commonwealth, to deliver to him or them, the said lieutenant or sub-lieutenants, within ten days from and after the date of the said warrants (unless the lieutenant or sub-lieutenants shall judge a longer time to be necessary, which he or they are hereby empowered to grant) on oath or affirmation, which any of them is hereby empowered to administer, a true and exact list of the names and surnames of each and every male white person inhabiting or residing within his township, borough, ward or district, between the ages of eighteen and fifty-three (delegates in Congress, members of the supreme executive council, members of the general assembly, judges of the supreme court, attorney-general for the state, the judges of the admiralty, treasurer of the state, sheriffs, gaolers and keepers of workhouses, ministers of the gospel of every denomination, professors and teachers in the university, postmasters and postriders belonging to the general post-office, menial servants of ambassadors or ministers and consuls from foreign courts and of delegates in Congress from other states registered with the secretary of the supreme executive council of this state and servants purchased bona fide and for a valuable consideration only excepted).

[Section IV.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant and sub-lieutenants aforesaid shall, within five days after they shall receive the lists aforesaid, if they see cause, alter the present divisions of the city and counties respectively and divide them into new districts, each district to contain not less than four hundred and forty nor more than one thousand, officers and privates included, at the discretion of the said lieutenants and sub-lieutenants, and then sub-divide the said districts into eight parts as nearly equal as may be, paying due regard in each division to the convenience of the inhabitants: Provided always, That

two-thirds of the lieutenants met for the above purpose agree to such division, and that each person be annexed to the numerical class to which he formerly belonged.

[Section V.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the militia of the Northern Liberties of the city of Philadelphia, the district of Southwark and the township of Moyamensing and Passyunk be and they hereby are united to the city of Philadelphia, to act in conjunction with the militia of the said city, and distinct from the rest of the county of Philadelphia, that they draw lots for rank in battalion and be joined in brigade and act in every other matter that respects the militia law as if they were inhabitants of the said city, and to be under the direction of the lieutenant and sub-lieutenants of the city.

[Section VI.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant and sub-lieutenants of the city of Philadelphia and districts annexed, shall, out of the several battalions of the said city and districts annexed, take such a number as will compose eight companies to form one battalion of artillery, to be officered and arrayed as follows, that is to say, one lieutenant-colonel, one major, eight captains, eight captain lieutenants, eight first lieutenants, sixteen second lieutenants, the senior to bear the standard and the junior to do the duty of conductor; paymaster, adjutant and quartermaster to be taken from the line; one surgeon, one sergeant major, five major, drum major, eight clerks, thirty-two sergeants, forty-eight bombadiers, forty-eight gunners, eight drummers, eight fifers and four hundred matrosses, and both the officers and privates of the said battalion shall be subject to the same fines and penalties for any omission of duty as the infantry: Provided, nevertheless, That the persons composing the artillery heretofore formed may be permitted to continue as a part of the said battalion of artillery and the officers shall be elected in the same manner as is directed by this act for the election of officers of the infantry.

[Section VII.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the several captains of the artillery battalion shall determine their rank by lot, and be

numbered from one to eight in numerical order, and be subject to be drawn forth into actual service in rotation by companies, according to their number in rank, number one in rank with the first class of the militia and so on, until all shall take their tour, or otherwise as the commander-in-chief of the militia shall direct.

(Section XI, P. L.) And whereas it is expedient to embody such a number of light horse as will be useful when the militia is called into actual service:

Therefore:

[Section VIII.] (Section XII, P. L.) Be it further enacted by the authority aforesaid, That each of the lieutenants of the several counties of this state may form a corps of light horse not to exceed six privates for each battalion of infantry in each county, to be taken distributively out of each, in case volunteers offer; otherwise, at large throughout the county. And the light horse shall be officered as light horse usually are, and shall be subject to appear upon muster days, and shall turn out in classes as other militia; and in case any person who shall be admitted into the said light horse shall fail of providing himself with a suitable horse, weapons and furniture, such person shall be liable to be called out and serve in the foot militia.

[Section IX.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the troop of light horse in the city of Philadelphia shall be limited to the number of fifty, exclusive of officers, the vacancies thereof to be filled in the manner heretofore practiced; and the said troops shall be liable to appear on muster days, and to be called out into service as other militia, and the light horse of this state, when in actual service, shall be subject to the same rules and regulations as the foot militia and to like fines and penalties for neglect of meeting on muster days or turning out on their tour when thereunto called, such fines and penalties to be appropriated as the fines and penalties for like offenses in other cases.

[Section X.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any light horseman shall be elected or appointed a commissioned officer in any battalion

of infantry of his proper city or county, and on notice given him in writing by the lieutenant shall accept thereof, his place in the said light horse shall be vacated and any light horseman who shall be absent more than four months from his city or county shall vacate his place in the troop to which he belonged.

[Section XI.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant or sub-lieutenant shall appraise the horse of each person serving as a light horseman, immediately before every time of going into actual service, and enter the same in a book, and in case such horse shall be killed or die in actual service or be taken by the enemy, otherwise than by neglect he shall be paid the value of such appraisement by an order to be drawn by the lieutenant or any two sub-lieutenants on the militia fund in the hands of the treasurer for that purpose.

[Section XII.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said lieutenants shall give public notice by advertisements at ten or more of the most public places in the said districts respectively, of the said divisions being made, and appointing a certain day for each district, not less that [sic] [than] ten days after the said notice, and requiring the male white inhabitants between the ages aforesaid residing in the said divisions respectively to meet at a certain place as near the centre of the said division as may be, and then and there, between the hours of ten in the morning and six in the afternoon of the said day, to elect, by ballot, two field officers, That is to say, one lieutenant, colonel and one major, and the inhabitants of the said subdivisions respectively shall elect by ballot, as aforesaid, on the same or some other day as soon as convenient, one captain, one lieutenant and one ensign, previous to which said election the said inhabitants shall elect two freeholders to preside as judges thereof, and all and each of these officers respectively shall be such persons as have taken the oath of allegiance and abjuration agreeable to the laws of this state; and each captain shall appoint a suitable person for clerk in his company; and the said lieutenant or sub-lieutenant shall attend and superintend each and every of the said battalion elections, and

shall cause the lieutenant-colonels so elected in the city and counties respectively to meet together as soon as may be, and cast lots for rank of the battalions and the rank of the officers in each battalion shall be determined by the lot drawn by their respective lieutenant-colonels, and the captains so elected in the sub-divisions shall meet and cast lots for their rank in the battalion to which they belong, and the rank of the sub-altern officers in each company shall be determined by the lot drawn by their respective captains. And the said lieutenants shall, within ten days, or as soon as may be, having regard to their local situation, transmit proper certificates to the president of the supreme executive council of the names of the persons so as aforesaid elected, and their rank, both of battalion and companies in the several battalions, in order that commissions may be forthwith granted to them agreeable to the said certificates, and elections for officers in the light horse shall be made in like manner as elections for officers in the infantry.

[Section XIII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if any battalion, troop or company shall neglect or refuse to elect their officers as aforesaid, then, in such case, it shall and may be lawful for the lieutenant, with the advice and consent of two or more of the sub-lieutenants of the city of Philadelphia, and of such county where such neglect or refusal shall be, to nominate one reputable person to the supreme executive council in the room of each officer so neglected to be chosen, and the said council, approving thereof, shall commission the said person, which shall be as effectual to all intents and purposes as if the said officers had been elected as before directed, and the said lieutenant shall, as soon as may be, acquaint the parties so neglecting or refusing with the appointments so as aforesaid made. And the said several and respective officers elected or appointed as aforesaid shall serve respectively as officers of the militia for the space of three years, at the end of which time the lieutenant of the city and counties respectively, in the manner hereinbefore directed, shall cause a new election to be held in

the said city and counties respectively, but nothing herein contained shall be construed to render any of the former officers incapable of being re-elected.

[Section XIV.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the commissioned officers of each company shall appoint three sergeants, three corporals, one drummer and fifer for their respective companies, and all persons who have heretofore been officers in the militia under the late law, if not re-elected, shall deliver up their arms, accoutrements, drums, fifes and colors if paid for by the public, to the lieutenant or sub-lieutenant of the city or county aforesaid; and the lieutenant of the city of Philadelphia and the lieutenant of the counties respectively are hereby authorized to purchase such drums, fifes and colors as may be afterwards wanted to supply the companies in the city and counties respectively.

[Section XV.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the field officers of each battalion in this state shall constitute and appoint, in their respective battalion, one chaplain, one quartermaster, one surgeon, one adjutant, one quartermaster sergeant, one sergeant major, one drum and fife major; and the lieutenants and sub-lieutenants of the city and counties respectively shall, at their discretion, furnish and procure proper carriages for the battalion or drafts of the militia when it shall be necessary.

[Section XVI.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant or sub-lieutenants of the city and counties respectively shall pay such wages as shall be necessary to one adjutant, one quartermaster sergeant and one drummer and fifer for every day that the service may require them, out of the moneys arising from fines, on the said adjutant, quartermaster sergeant, drummer and fifer producing a certificate of the service so performed from the commanding officer of the said battalion or company.

(Section XXI, P. L.) And whereas the sums allowed by the late militia law for a drummer and fifer have been insufficient and many officers have been obliged to pay considerably more:

[Section XVII.] (Section XXII, P. L.) Be it therefore en-

acted by the authority aforesaid, That the lieutenants shall and hereby are required to pay unto such captains or commanding officers of companies such reasonable sums as they have expended for drummers and fifiers on their producing an account of such costs properly certified.

[Section XVIII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the commissioned officers of each company of militia shall nominate and appoint one discreet person who shall be called the almoner, residing in the district or sub-division out of which their company is formed, provided such almoner is above the age of fifty-three years, to take proper care of the families of such poor militiamen, within their respective districts, as are in actual service in their own turn and to grant them such support as their necessities may require, provided such support do not exceed half the price of daily labor as the same shall be ascertained as hereinafter is directed, and the said officers of the company, or any two of them, shall make out a certificate of their nomination and appointment, directed to the lieutenant of the city or lieutenant or sub-lieutenants of the county to which the company belongeth; which certificates shall enable the said almoner thereby appointed to draw from time to time on the said lieutenant or sub-lieutenant for such sum or sums of money as shall be necessary for the purpose aforesaid, and he shall render an account of the moneys by him drawn to the said lieutenants.

[Section XIX.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That every sub-lieutenant of the said city and several counties shall, once in every three months, render an account to his proper lieutenant of all moneys received by him and of his expenditures by virtue of this act, and settle and pay to him the balance of the same, and the lieutenant of the said city and each county respectively shall make out complete accounts of all the moneys received by him and of his expenditures and return the same to the supreme executive council once in every six months, and each lieutenant and sub-lieutenant is hereby empowered to employ one clerk the better to complete the same, and on

failure of accounting as aforesaid each lieutenant and sub-lieutenant shall forfeit and pay for every such neglect the sum of ten thousand pounds, to be applied as other fines are directed to be applied by this act.

[Section XX.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That the precedence of the officers of the city of Philadelphia and of the several counties in this commonwealth shall be determined as follows, That is to say, when the commissions are of equal rank and date the officers of the city of Philadelphia and districts annexed shall take rank or precedence of all other officers of equal rank in this state and next to them the officers of the county of Philadelphia and so on, according to the seniority of the counties respectively.

[Section XXI.] (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That the whole of the militia so enrolled as aforesaid shall be subject to be exercised in companies under their respective officers as followeth, That is to say, in the city of Philadelphia and districts annexed in companies on the two last Mondays in the month of April and in battalion on the two first Mondays in the month of May; and the first battalion shall muster in battalion on the third Monday in May, the second battalion on the Tuesday following, the third battalion on the Wednesday, and so on till the whole number of battalions shall have mustered according to their numerical rank on any or every day of the week (Saturday and Sunday excepted) until the whole number of battalions shall have mustered in the aforesaid manner; and on the day following, should it not happen to be Saturday or Sunday, the whole number of battalions belonging to the city of Philadelphia and districts annexed shall meet in brigade and the militia of the city of Philadelphia and districts annexed shall meet to exercise in companies the two last Mondays in the month of August and in battalion on the two first Mondays in the month of September, and the first battalion on the second Monday in the month of October, the second battalion on the Tuesday following, and the third battalion on the Wednesday and so on until the whole number of battalions according to their

rank have mustered, except as before excepted. And then, on the day following (with the foregoing exceptions) the whole battalions shall meet in brigade. And in each and every county in the following manner, That is to say, in companies the two last Mondays in the month of April, and the two first Mondays in the month of May, and shall begin their mustering in battalion in the following manner to wit, the first battalion shall meet in battalion on the third Monday of the said month, the second battalion on the Tuesday following, the third battalion on the Wednesday, and so on according to the rank of battalions in the aforesaid manner mustering each day in the week (Saturday and Sunday excepted) and until the whole number of battalions belonging to each county shall have mustered in this manner; and in companies the two first Mondays in the month of October, and the two first Mondays in the month of November; and the first battalion in battalion on the third Monday in the month of November, the second battalion on the Tuesday following, the third battalion on the Wednesday and in this manner until the whole number of battalions belonging to each county according to their ranks severally shall have mustered on any day it may happen (except on a Saturday or Sunday as before excepted). And on each of the said days every militiaman so enrolled shall duly attend with his arms and accoutrements in good order; and a sergeant, or the clerk of each company, shall, at the end of one hour after the time appointed for the meeting of the company or battalion, call over the muster roll of the company, noting those who are absent and on that day shall make return in writing to the captain or commanding officer then present of such absentees, and all persons so absent at the time of calling over the roll or who shall depart from the parade before duly discharged shall be liable to the fines hereafter mentioned.

[Section XXII.] (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That if any commissioned officer shall neglect or refuse to attend on any of the days appointed for exercise in companies as aforesaid (unless prevented by sickness or some other unavoidable accident) such commissioned officer shall forfeit and pay the price of three

days' labor; and any non-commissioned officer or private and all enrolled persons so refusing or neglecting (except as before excepted) shall forfeit and pay the price of one and a half days' labor, and on a brigade or battalion day a field officer shall forfeit and pay the price of six days' labor, and a commissioned officer under that rank the price of four days' labor, and a non-commissioned officer or private and all enrolled persons refusing to meet and exercise the price of two days' labor (excepting as before excepted), the said prices to be ascertained as hereafter directed. The names and surnames of all which person so incurring the said fines and penalties (except such as may have paid the same into the hands of the captain or commanding officer of the company) shall be duly returned by the captain or commanding officer of each company under his hand, together with such fines as he has received to the lieutenant-colonels or commanding officers of the battalions respectively on each field day, which said lieutenant-colonel or commanding officer of battalion shall, on receipt of such fines and returns, forthwith transmit the same to the lieutenant or one of the sub-lieutenants of the county; and also a duplicate thereof to the treasurer of the county, and the said lieutenant or sub-lieutenant shall immediately after the said returns are respectively made to him cause the same to be recovered by issuing his warrant to the sheriff, constable or other fit person that he can procure to levy the aforesaid fines by distress and sale of the offender's goods and chattels, together with five per centum for collecting where no distress is necessary to be made, and seven and a half per centum in case of distress and sale, in full for his trouble for levying, selling and collecting (unless the offender show cause of absence by sickness or otherwise, and can produce a certificate from the captain or commanding officer of the company, who may give such certificate if he verily believes the offender ought to be excused from paying the said fines), but if no such goods and chattels can be found, then to seize and take the body of such offender, and commit him to the common gaol or some other place of close confinement for the space of ten days for each fine, unless he sooner pay the same. And the lieutenant shall twice in

each year transmit the said fines, when collected, into the hands of the county treasurer, who shall pay the same into the hands of the state treasurer, to be kept as a fund, subject to such drafts as may be made upon him from time to time by the lieutenant or at least two sub-lieutenants for the use of the militia of that county. But if the funds of any county, by the generality of their turning out, should be insufficient to answer the drafts for the support of persons serving or suffering in the militia, in that case the executive council shall be empowered to draw on the funds of such other counties whose surplus may be most enabled to bear it.

[Section XXIII.] (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That the treasurer of each county and the state treasurer shall keep all the moneys arising from fines by the militia law separate from all other moneys, and keep separate books to enter the same for the purposes hereinafter mentioned.

[Section XXIV.] (Section XXIX, P. L.) And be it enacted by the authority aforesaid, That whenever it may be necessary to call into actual service any part of the militia, in case of a rebellion or invasion of this or any of the adjoining states, then it shall and may be lawful for the president or vice-president in council to order into actual service such part of the militia, by classes, of the city of Philadelphia or any of the county or counties as the exigency may require: Provided, That the part so called doth not exceed four classes of the militia of the county or counties so called out: And provided also, That such counties shall not be again called upon to furnish any more militia until an equal number of classes of the militia of the other counties respectively be first called, unless the danger of an invasion from Indians or others should make it necessary to keep in reserve the militia of such county or counties for their own immediate defense.

(Section XXX, P. L.) And to the end that the militia, when called by classes, shall be properly officered, the following order is hereby directed and enjoined, That is to say:

For the first draft, the captain of the first company, the lieutenant of the second and the ensign of the fourth.

Second draft, the captain of the second company, the lieutenant of the first and the ensign of the third.

Third draft, the captain of the third company, the lieutenant of the fourth and the ensign of the second.

Fourth draft, the fourth captain, the lieutenant of the third company and the ensign of the first.

Fifth draft, the fifth captain, the lieutenant of the sixth company and the ensign of the eighth.

Sixth draft, the sixth captain, the lieutenant of the fifth company and the ensign of the seventh.

Seventh draft, the captain of the seventh company, the lieutenant of the eighth and the ensign of the sixth.

Eighth draft, the captain of the eighth company, the lieutenant of the seventh and the ensign of the fifth.

Non-commissioned officers to take tour of duty with the commissioned officers.

And the field officers of battalions in the city of Philadelphia and in each county of this state shall be divided in like manner, and each class to be considered as a detachment from different corps liable to serve two months and no longer, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved, but nothing herein contained shall prevent the supreme executive council from employing or calling out part of any class or any company or companies, battalion or battalions without respect to this rule whenever the exigency is too sudden to allow the assembling of the scattered militia which compose the particular classes and the service of the persons so called out, shall be accounted as part of their tour of duty and the militia in actual service shall receive the same pay and rations as continental troops, their pay to commence two days before marching, and receive pay and rations at the rate of fifteen miles per day on their return home.

(Section XXXI, P. L.) And whereas the militia, when called into actual service, are not entitled to any bounty, such as clothing at the public expense and, therefore, their reward is not equal to that of the regular troops:

[Section XXV.] (Section XXXII, P. L.) Be it therefore en-

acted by the authority aforesaid, That when the militia, or any detachment thereof, are called out on duty each non-commissioned officer and private shall receive such a sum as, including the continental pay, will amount to the price of common labor for the time of service given, to be drawn from the treasury by the paymasters of the militia from time to time appointed; and the officers, whose duty it may be are hereby required to make out separate pay rolls of the said bounty and that all commissioned officers shall, over and above the pay established from time [to time] by the honorable Congress, receive the same bounty which a private shall receive.

[Section XXVI.] (Section XXXIII, P. L.) And be it further enacted by the authority aforesaid, That at each quarter sessions of the peace of the city and in the several counties throughout the state the price of common labor then current in the said city and counties respectively shall be inquired into and ascertained, and the justices, or a majority of them, attending the said courts are hereby required to fix and determine what is the average price of common labor at that time by the day, which price so determined by the said justices shall be considered as a rate by which all fines shall be determined for neglects or omissions of militia duty during and from that time to the end of the next quarter sessions of the peace, and the said justices are hereby required to make out a certificate of the price so determined for the lieutenants of the said city and counties respectively under their hands and seals.

[Section XXVII.] (Section XXXIV, P. L.) And be it further enacted by the authority aforesaid, That when any class or classes of the militia shall be called to perform any tour of duty, the lieutenant or sub-lieutenants shall cause each and every person so called to be notified of such call at least three days before the time of assembling the said militia by a written or printed notice being delivered to him personally or left at his house or usual place of abode by some officer or other fit person employed for that purpose by the commanding officer of said company, and any person refusing or neglecting to perform such tour of duty shall pay, for each and every day he shall so neglect or refuse the price of one day's labor, and in case

he shall be possessed of such estate as is hereinafter mentioned, shall pay such additional sum as by this act is further directed.

[Section XXVIII.] (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That the master or mistress of any apprentice and the father or mother of any minor liable to serve in the militia who shall refuse or neglect to attend as aforesaid, such minor being in the service of his father or mother, master or mistress, they shall be respectively accountable for the fine or fines so incurred by such minor or apprentice.

[Section XXIX.] (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, That no mariner or seaman shall be subject to the fines and penalties of this act for not performing militia duties if such mariner or seaman is in actual employ by being shipped for a voyage or absent at sea.

[Section XXX.] (Section XXXVII, P. L.) And be it further enacted by the authority aforesaid, That the militia of this state whilst in the actual service of the United States shall be subject to the same rules and regulations as the federal army: Provided, That upon any transgression or offense of a militiaman, whether officer or private, against the rules and regulations of the federal army the cause shall be tried and determined by a court martial of the militia of this state, and that it shall be in the power of the president of the supreme executive council, or in case of his absence, of the commanding officer of the militia to mitigate, suspend or pardon any punishment to which any militiaman may be sentenced by a general court-martial.

[Section XXXI.] (Section XXXVIII, P. L.) And be it further enacted by the authority aforesaid, That if any delinquent shall neglect or refuse to pay the fine for an omission of performing his tour of militia duty, within five days after the appeal [hereinafter mentioned] it shall and may be lawful for the lieutenant or any sub-lieutenant to issue his warrant to the sheriff, or any constable or other fit person that he can procure, to levy the said fine, by distress and sale of the offender's goods and chattels, lands and tenements, together with

seven and a half per centum and the charges of keeping the distress, in full for his trouble for levying, selling and collecting; which said distress and sale shall be made according to the directions of the law for levying and selling goods and chattels distrained for rent; but if no such goods and chattels, lands and tenements can be found, then to seize and take the body of such offender and commit him to the common gaol or some other place of close confinement for the space of four months, unless he sooner pays the said fine, and no process shall issue to stay the execution of such warrant unless in case of the seizure of real estates.

(Section XXXIX, P. L.) Provided always, That if any person shall think himself aggrieved in the seizure of his lands and tenements he may enter an appeal before the justices to the next court of common pleas for said county, and on the party giving sufficient security within six days next after any lands and tenements shall be seized or distrained as aforesaid to prosecute such appeal with effect, the justices shall receive the same and stay further process, and the said justices shall return every such appeal on the first day of the next term, and the court shall direct a trial by a jury of the country as in cases of debt, whose verdict shall be final and conclusive; and, except in extraordinary cases, of which the court shall judge, all such appeals shall be tried at the term to which such returns shall be made.

(Section XL, P. L.) Provided also, That in case real estate be sold as aforesaid, such sale shall be made by the sheriff of the county, who shall make a sufficient deed for the same and put the purchaser into possession thereof.

[Section XXXII.] (Section XLI, P. L.) And be it further enacted by the authority aforesaid, That no militiaman shall withdraw himself from the company to which he belongs under the penalty of the value of twenty days' labor, to be sued for and recovered by the commanding officer of the company from which he shall so withdraw himself before any justice of the peace by action of debt: Provided nevertheless, That persons removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company

to which he did belong who shall give him a discharge, certifying the class to which he belongs, and whether he hath served his tour of duty or not, which certificate the said militiaman shall produce to the captain or commanding officer of the company in whose bounds he next settles within ten days after his settlement under penalty of the value of thirty days' labor to be recovered and applied as aforesaid; and the captain or commanding officer is hereby required to enroll him in the class specified in the said certificate.

[Section XXXIII.] (Section XLII, P. L.) And be it enacted by the authority aforesaid, That in all cases of doubt respecting the age of any person enrolled or intended to be enrolled in the militia, the party questioned shall prove his age to the satisfaction of the officers of the company within the bounds of which he may reside, or a majority of them.

(Section XLIII, P. L.) And whereas it is just and reasonable that those who have considerable property should pay for the protection of that property when they do not give their service in facing danger in the field or bearing any of the necessary fatigues attending a military life; and to compel all persons to give their personal service or some equivalent therefore in some proportion to such property:

[Section XXXIV.] (Section XLIV, P. L.) Be it therefore enacted by the authority aforesaid, That all and every person and persons who are in and by this act required to perform a tour of duty, and have an estate shall pay for neglecting to perform the said tour of duty, in addition to the fine of the price of one day's labor as aforesaid the sum of fifteen shillings in every hundred pounds on all his rateable property and occupation in the manner directed to be ascertained by an act of assembly passed the third day of April, one thousand seven hundred and seventy-nine, entitled "An act to raise the supplies for the year one thousand seven hundred and seventy-nine,"¹ and as may be directed to be taken by every yearly or other state tax in future.

(Section XLV, P. L.) And in order that the lieutenant of each county may have the amount of the whole estate of each person

¹ Chapter 840.

residing in said county, although the said estate or estates may be situate in some other county or counties, that he, the said lieutenant, may be able, where the case requires it, to levy for the interest on the whole wheresoever lying within this state:

[Section XXXV.] (Section XLVI, P. L.) Be it further enacted by the authority aforesaid, That the assessors of each and every county finding any kind of taxable estate within said county belonging to persons resident in some other county within the state shall and are hereby required to make out a list of the amount of the valuation of such estate or estates, placing the same opposite the name of such proprietor, and once in every year send such lists to the lieutenant of the county where the owner of such estate may reside.

[Section XXXVI.] (Section XLVII, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant of the city of Philadelphia and of the several counties of this state shall have and receive the value of one and an half bushels of wheat per day, and the sub-lieutenants for the said city and counties shall have and receive the value of one and a quarter bushels of wheat per day each, as the same shall be declared from time to time by the general assembly, for their trouble, and for every day in which they shall be employed in doing and performing the respective duties required by this act, which said sum or sums shall be respectively paid unto them out of the fines incurred by this act.

[Section XXXVII.] (Section XLVIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person called to do a tour of militia duty to find a sufficient substitute, having been previously classed at least six months in the company or battalion to which the person belongs who hires such substitute: Provided always, That persons serving by substitute as aforesaid, if said substitute shall be called in his own turn into actual service before the term expires which he was to serve for his employer, that then the person procuring such substitute shall march in the said substitute's turn or be liable to pay his fine for neglect, which fine is to be recovered as other fines for neglect of serving are by this act directed to be recovered and that sons who

are not subject to the militia law may be admitted as substitutes for their fathers, and that each substitute be approved of by the lieutenant or sub-lieutenant.

[Section XXXVIII.] (Section XLIX, P. L.) And be it further enacted by the authority aforesaid, That the lieutenant or one of the sub-lieutenants shall, within ten and not less than five days after the marching of any part of the militia, call to his assistance two freeholders, one of whom shall be a justice of the peace, to sit at the most convenient place for the inhabitants of their respective districts (notice having been given of such place in the written or printed summons of every militiaman), and shall there hear and determine all appeals that may be made by the persons thinking themselves aggrieved by anything done in pursuance of this act, and they are hereby authorized and required to grant such relief to such appellant as to them shall appear just and reasonable in consideration of such inability of body as in the opinion of the court renders him incapable of performing military duty, and each of the said freeholders, before they shall sit on the said appeal, shall take the following oath or affirmation, viz.: "That he will hear and impartially determine on the cases of appeal that may be laid before him agreeable to law and according to the best of his knowledge," which oath or affirmation the said justice, lieutenant or sub-lieutenant is hereby empowered and required to administer, and the said justice and freeholder shall have and receive from the said lieutenant the value of one bushel of wheat each for every day they sit on the said appeals, and the said lieutenant and justice of the peace shall each keep a separate record of the proceedings of such court of appeals.

[Section XXXIX.] (Section L, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall knowingly sell, buy, take or exchange, conceal or otherwise receive any arms, accoutrements, colors or drums belonging to this state or the United States on any account or pretense whatsoever, the person so offending, being convicted thereof before one or more justice or justices of the peace of the city or county where such offense shall be committed, shall forfeit and pay for every such offense treble the value of such arms

or accoutrements, to be ascertained by the said justice or justices and levied by distress and sale of the offender's goods and chattels by the justice or justices before whom such offender shall be convicted, returning the overplus, if any, on demand, to such offender, and for want of such distress shall commit such offender to the common gaol of the county, there to remain without bail or mainprise for any term not exceeding three months, unless such money shall be sooner paid; and in every case the proof of the property shall be made by the possessor of such arms or accoutrements.

[Section XL.] (Section LI, P. L.) And be it further enacted by the authority aforesaid, That no person, not being a subject of this state or any of the United States, who already has deserted or shall hereafter desert from the enemy in the course of the present war, shall be enrolled in any company of militia of this state during the present contest or be subject to any fine or penalty for not serving as by this act is required of others.

[Section XLI.] (Section LII, P. L.) And be it enacted by the authority aforesaid, That no civil process shall be served on any commissioned, non-commissioned officer or private at any regimental review or training of any company, or while going to or returning from the place of such review or training.

[Section XLII.] (Section LIII, P. L.) And be it enacted by the authority aforesaid, That all moneys passing into the treasury by virtue of the directions of this act shall be appropriated as a fund for the benefit and relief of such officers and privates of the militia of this state as are or shall be wounded and disabled in service, and of the widows and children of such as have or shall fall in battle or otherwise lose their lives in the service of the state, and shall not be considered as a revenue for any other purpose than that of supporting the necessary officers for carrying this law into effect, equipping and furnishing the militia with every necessary apparatus for the defense and security of the state, the surplus, if any, to be appropriated in such manner and to such uses as the assembly shall from time to time direct and appoint.

[Section XLIII.] (Section LIV, P. L.) And be it further en-

acted by the authority aforesaid, That if any commissioned officer, non-commissioned officer or private militiaman of this state who has lost or may hereafter lose a limb in any engagement in the service of the state, or in the service of the United States of America, or be so disabled as to render him incapable of getting a livelihood, he shall receive during life or the continuance of such disability a pension adequate to the necessity of such disabled officer or private militiaman by the judgment of the orphans' court of the county where such disabled officer or private militiaman shall dwell or reside. And every officer or private disabled as aforesaid shall, before he be legally entitled to the pension above mentioned, produce a certificate, upon oath, from the commanding officer who was in the same engagement in which he was wounded, or from the officer next in command, or the surgeon that attended him, and upon such disabled officer, non-commissioned officer or private militiaman's producing such certificate as aforesaid to the orphans' court of the county where such disabled officer, non-commissioned officer or private militiaman shall dwell or reside, the said court is hereby enjoined and required, if they are satisfied of the truth thereof, to give every such officer or private an order on the lieutenant of the said city or county for such sums of money from time to time as to them shall appear just and necessary, provided such sums of money do not exceed the half pay and rations of such officer or private. And the said lieutenant is hereby enjoined and required to accept and pay the said order to such officer or private. And the said lieutenant shall draw on the state treasurer as often as he shall have occasion for such sum or sums of money as he shall make appear to the president and council to be necessary for carrying this proviso into execution.

[Section XLIV.] (Section LV, P. L.) And be it enacted by the authority aforesaid, That if any officer, non-commissioned officer or private militiaman residing in this state, having a family, has been killed, shall be killed or shall die of his wounds received in the service of this or the United States, a certificate from the commanding or other officer next in rank who was in the same engagement in which he was killed or wounded and

died of his wounds, being produced to the orphans' court, and also a certificate from the overseers of the poor and two other reputable freeholders of the township, borough, ward or district where the family of such deceased officer or private militiaman shall dwell or reside at that time, setting forth the particular circumstances of such family, the age or ages of the child or children and the necessity of granting them some support, the said orphans' court, when possessed of the certificates aforesaid, is hereby authorized to give orders upon the lieutenant of the city or county for such sum of money as they may think just and necessary for the support of such family from time to time.

(Section LVI, P. L.) Provided always, That the sum of money aforesaid does not exceed the half pay and rations that such officer, non-commissioned officer or private was entitled to at the time of his death.

[Section XLV.] (Section LVII, P. L.) And be it further enacted by the authority aforesaid, That if any field or other commissioned officer, at any regimental review or on any other occasion when the battalion or company to which he may belong, or in which he holds a command is paraded in arms, shall appear, misbehave or demean himself in an unofficerlike manner, he shall, for such offense, be cashiered or punished by fine at the discretion of a general court martial as the case may require in any sum not exceeding the price of six days' labor; and if any non-commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be found drunk or shall disobey orders or use any reproachful or abusive language to his officers, or any of them, or shall quarrel himself or promote any quarrel among his fellow soldiers he shall be disarmed and put under guard by order of the commanding officer present until the company is dismissed, and shall be fined in any sum not exceeding the price of ten days' labor nor less than one day's labor.

[Section XLVI.] (Section LVIII, P. L.) And be it further enacted by the authority aforesaid, That if the lieutenant-colonel or commanding officer of any battalion shall neglect

or refuse to give orders for assembling his battalion at the times appointed by this law or at the direction of the lieutenant or sub-lieutenant of the city or any county when the said lieutenant or sub-lieutenant is thereto commanded by the president or vice-president in council, or in case of an invasion of the city or county to which such battalion belongs, he shall be cashiered and punished by fine at the discretion of a general court-martial; and if a commissioned officer of any company shall, on any occasion neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the lieutenant-colonel or commanding officer of the battalion to which such company belongs he shall be cashiered and punished by fine at the discretion of a regimental court-martial and a non-commissioned officer offending in such case shall be fined in any sum not exceeding the price of ten days' labor.

[Section XLVII.] (Section LIX, P. L.) And be it further enacted by the authority aforesaid, That if any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty and send or convey the same to the lieutenant-colonel or commanding officer of the battalion to which such company may belong for such neglect or refusal he shall be cashiered or fined at the discretion of a regimental court-martial.

[Section XLVIII.] (Section LX, P. L.) And be it further enacted by the authority aforesaid, That the following rules and regulations shall be those by which the militia shall be governed.

1st. Every general court-martial shall consist of thirteen members, all of whom shall be commissioned officers and of such rank as the case may require, and these thirteen shall choose a president out of their number, who shall be a field officer.

2d. Every regimental court-martial shall be composed of five members, all commissioned officers, who are to choose one of their members as president not under the rank of a captain.

3d. In any court-martial not less than two-thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

4th. The president of each and every court-martial, whether general or regimental, shall require all witnesses in order to the trial of offenders to declare on oath or affirmation that the evidence they shall give is the truth, the whole truth and nothing but the truth, and the members of all such courts shall take an oath or affirmation, which the president is required to administer to the other members and the next in rank is required to administer to him that they will give judgment with impartiality.

5th. All members of any militia called as witnesses in any case before a court-martial who shall refuse to attend and give evidence shall be censured or fined at the discretion of the court.

6th. No officer or private man being charged with transgressing these rules shall be suffered to do duty in the battalion, company or troop to which he belongs until he has had his trial by a court-martial, and every person so charged shall be tried as soon as a court-martial can be conveniently assembled.

7th. If any officer or private man shall think himself injured by his lieutenant-colonel or the commanding officer of the battalion and shall, upon due application made to him, be refused redress, he may complain to the lieutenant of the county, who shall summon a general court-martial that justice may [be] done.

8th. If an inferior officer or private man shall think himself injured by his captain or other superior officer in the battalion, troop or company to which he belongs, he may complain to the commanding officer of the battalion who shall summon a regimental court-martial for the doing justice according to the nature of the case.

9th. No penalty shall be inflicted at the discretion of the court-martial other than degrading, cashiering or fining.

10th. The commanding officer of the militia for the time being shall have full power of pardoning or mitigating any censures or penalties ordered to be inflicted on any private or non-commissioned officer for the breach of any of these articles by a general court-martial, and every offender convicted as

aforesaid by any regimental court-martial, may be pardoned, or have the penalty mitigated by the lieutenant-colonel or commanding officer of the battalion, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private man from another, but in case of officers such sentence to be approved by the commander-in-chief or the nearest general officer of the militia, who are respectively empowered to pardon or mitigate such sentence or disapprove the same.

11th. The militia, on the days of exercise, may be detained under arms on duty in the field any time not exceeding six hours, provided they are not kept above three hours under arms at any one time without allowing them a proper time to refresh themselves.

12th. No company or battalion shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged; and any person who shall bring any kind of spiritous liquor to such place of training shall forfeit such liquors so brought for the use of the poor belonging to the township where such offender lives.

13th. All fines that shall be incurred by any breach of these rules shall be paid into the hands of the clerk of the company to which the offenders belong, but if a field officer, to the clerk of that company whose captain has the first rank in the battalion, within three weeks after they become due; but in case of neglect or refusal to pay any of the said fines, then in such case, upon application made by the clerk to whom such fine or fines ought to have been paid, it shall and may be lawful for any one justice of the peace of the county, if the fine does not exceed fifty pounds, or two justices if above that sum, by warrant under his or their hands and seals to levy such fine or fines respectively on the offender's goods and chattels, and otherwise proceed in recovering the same as is by law directed, and when recovered the said justice or justices are required to pay such fines into the hands of the clerk who applied for recovery and shall be applied as other fines before directed.

[Section XLIX.] (Section LXI, P. L.) And be it further enacted by the authority aforesaid, That in any case wherein any

person is by this act called to do or perform anything in execution thereof, or otherwise, and no special recompense is herein provided for such service, such person shall be satisfied for the same at the discretion of the lieutenant, taking to his assistance two sub-lieutenants of the city or county respectively.

[Section L.] (Section LXII, P. L.) And be it further enacted by the authority aforesaid, That in any case wherein the person who shall be authorized to collect any fine due by virtue of this act shall need assistance in levying the same, such collector, on application to any captain or inferior officer of the militia of the place where such fine shall be due, shall be assisted therein by a sufficient party of militia of the neighborhood ordered on such duty by such captain or other officer, and if such captain or other officer or any of the party by such captain or other officer ordered on such duty refuse or neglect to perform the said duty, such captain or other officer shall forfeit and pay the sum of fifty pounds, and if any non-commissioned officer or private be delinquent therein he shall forfeit and pay the sum of twenty-five pounds, to be recovered with costs of suit as demands for fifty pounds are by law recoverable, to be applied as other fines levied by virtue of this act.

[Section LI.] (Section LXIII, P. L.) And be it further enacted by the authority aforesaid, That in case any militiaman shall desert when he is out on a tour of duty the commanding officer of the battalion or detachment from which he deserts shall, as soon as possible, give notice thereof to the lieutenant of the city or county or sub-lieutenant of the district from which he came who, if he does not see proper to send him back shall subject him to the payment of such fine as he would have paid if he had not gone out on such tour.

[Section LII.] (Section LXIV, P. L.) And be it further enacted by the authority aforesaid, That if any suit or suits shall be brought or commenced against any person or persons for anything done in pursuance of this act, the action shall be laid in the county where the causes of such action did arise and not elsewhere, and the defendant or defendants in such action or actions to be brought may plead the general issue, and

give this act and the special matter in evidence; and if the jury shall find for the defendants in such action or actions, or if the plaintiff or plaintiffs shall be non-suited or discontinue his or their action or actions after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs the defendant or defendants shall have treble costs and have the like remedy for the same as any defendant or defendants had or have in other cases to recover costs by law.

[Section LIII.] (Section LXV, P. L.) And be it further enacted by the authority aforesaid, That all and every the fines and forfeitures by this act made payable and the mode of recovery not hereinbefore particularly pointed out shall be recovered by the lieutenant of each county and of the city of Philadelphia by summons or warrant and execution from under the hand and seal of a justice of the peace in the neighborhood where the person charged resides, directed to any constable of the city or county, requiring him to levy the same on the goods and chattels of the delinquent, and the same cause to be appraised by two freeholders, and after being publicly advertised seven days make sale thereof, and after payment of the fine or forfeiture to the lieutenant, together with costs and charges, pay the overplus, if any, to the owner, and if goods and chattels sufficient to discharge the same cannot be found, that then the justice granting such precept shall certify the proceedings had thereon to the prothonotary of the county court of common pleas, who is thereupon required to issue a fieri facias directed to the sheriff of said county for levying the fines and forfeitures aforesaid, together with the costs on the lands or tenements of such delinquent.

[Section LIV.] (Section LXVI, P. L.) Provided always, and be it enacted by the authority aforesaid, That if any person or persons shall think him or themselves aggrieved by the judgment of the justice aforesaid in any suit of fifty pounds or upwards, he or they may appeal before the justice aforesaid, and on the party's giving security within six days next after any such judgment to prosecute such appeal in the court of

common pleas of the county with effect, the justice shall receive the same and stay further process, and the said justice shall return every such appeal on the first day of the next term, and the court shall direct a trial by jury, as in other cases of debt, whose verdict shall be final and conclusive; and all such appeals shall be tried at the term to which such returns shall be made, any law, custom or usage to the contrary notwithstanding.

[Section LV.] (Section LXVII, P. L.) And be it further enacted and declared, That the act entitled "An act to regulate the militia of the commonwealth of Pennsylvania,"¹ passed on the seventeenth day of March, Anno Domini one thousand seven hundred and seventy-seven; also, the supplement to the said act passed the nineteenth day of June, Anno Domini one thousand seven hundred and seventy-seven;² also, a further supplement to the said act passed on the thirtieth day of December, Anno Domini one thousand seven hundred and seventy-three;³ also, a further supplement to the said act passed on the fifth day of April, Anno Domini one thousand seven hundred and seventy-nine;⁴ also, such parts of an act, entitled "An act to empower the supreme executive council and justices of the supreme court to apprehend suspected persons and to increase the fine to which persons are liable for neglecting to do their tour of militia duty,"⁵ as relates to the fining the militia for not performing a tour of duty and the pay of the lieutenants are hereby repealed and made void.

[Section LVI.] (Section LXVIII, P. L.) Provided always, That nothing in this act contained shall be deemed to repeal, alter or dispense with the powers, authorities or duties of the present lieutenants and sub-lieutenants of the city and counties aforesaid, or of any other officer or person under the militia laws that have been in force in this state immediately before the passing of this act until their respective offices are supplied and filled by new appointments in virtue of this act which

¹ Chapter 750.

² Chapter 760.

³ Chapter 781.

⁴ Chapter 843.

⁵ Chapter 865.

said present lieutenants and sub-lieutenants or other proper officers are hereby authorized required and enjoined to collect or cause to be collected all [such] fines and forfeitures as have been or shall be incurred during the continuance of their respective commissions and pay in the same agreeable to this law, or the late laws aforesaid on or before the first day of July next. But in case the president or vice-president and council shall approve of the discontinuing to act or resignation of the said present lieutenants and sub-lieutenants or any of them and not otherwise it shall be lawful for such officer and he is hereby required to deliver to his successor in office an account on oath of all the moneys uncollected and outstanding on account of fines and forfeitures aforesaid, who is in such case empowered and required to collect the same.

Passed March 20, 1780. See the Acts of Assembly passed May 26, 1780, Chapter 908; September 22, 1780, Chapter 916; March 21, 1783, Chapter 1022; September 22, 1783, Chapter 1038; December 9, 1783, Chapter 1061; September 29, 1787, Chapter 1319; March 22, 1788, Chapter 1339; November 19, 1788, Chapter 1383; March 27, 1789; Chapter 1416; March 3, 1790, Chapter 1483; March 27, 1790, Chapter 1493; April 5, 1790, Chapter 1513 (repealed by the Act of Assembly passed) April 11, 1793, Chapter 1696. Recorded L. B. No. 1, p. 374, &c.

CHAPTER CMIII.

AN ACT TO DISCONTINUE A ROAD CALLED PALMER'S LANE IN THE TOWNSHIP OF THE NORTHERN LIBERTIES IN THE COUNTY OF PHILADELPHIA AND NEAR TO THE LOWER FALLS OF SCHUYLKILL

(Section I, P. L.) Whereas it has been represented to us on the petition of John Redman of the city of Philadelphia, practitioner in physic, and Nathaniel Falconer, of the same place, mariner, that in the year one thousand seven hundred and twenty-three, four, a road was laid out from the market place in Germantown, in the county of Philadelphia, to Robert Roberts' ferry, on the river Schuylkill, which entered the lands then owned by William Palmer, and since by the said John Redman and Nathaniel Falconer, at the northwest end of the same, and

Massachusetts

Forfeiture in
case of neglect.

And be it further enacted by the Authority aforesaid that if the said Davis & company shall build the Bridge aforesaid without such good and sufficient draw they shall be liable to pay the sum of Ten pounds for each and every Vessel which may be precluded from passing said Bridge for want of such draw to be recovered by the master or owner of such Vessel in any Court proper to try the same.

Approved June 21, 1793.

1793. — Chapter 13.

[May Session, ch. 14.]

AN ACT FOR ALTERING AN ACT INTITLED "AN ACT INCORPORATING THE HONBLE. JOHN WORTHINGTON ESQUIRE, AND OTHERS, THEREIN NAMED FOR THE PURPOSE OF RENDERING CONNECTICUT RIVER PASSABLE FOR BOATS AND OTHER THINGS FROM THE MOUTH OF CHICAPEE RIVER, NORTHWARD THROUGHOUT THIS COMMONWEALTH BY THE NAME OF THE PROPRIETORS OF LOCKS AND CANALS ON CONNECTICUT RIVER."

Preamble.

Whereas the Proprietors above named have represented that it will be very difficult (if practicable) to construct the Canals abovementioned in such manner as to convey down the same, rafts of such length and breadth as is provided in the Act abovementioned, and have requested, an alteration thereof:

Be it therefore enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same that the Proprietors of the Locks and Canals in Connecticut River shall not be holden or obliged to construct the Locks and Canals in the said River in such manner that Rafts and Floats exceeding sixteen feet in width or forty feet in length may pass down the same, any thing in the said Act to the contrary notwithstanding.

Part of a
former Act
altered.

Approved June 21, 1793.

1793. — Chapter 14.

[May Session, ch. 1.]

AN ACT FOR REGULATING AND GOVERNING THE MILITIA OF THE COMMONWEALTH OF MASSACHUSETTS, & FOR REPEALING ALL LAWS HERETOFORE MADE FOR THAT PURPOSE; EXCEPTING AN ACT INTITLED "AN ACT FOR ESTABLISHING RULES & ARTICLES FOR GOVERNING THE TROOPS STATIONED IN FORTS AND GARRISONS WITHIN THIS COMMONWEALTH, & ALSO THE MILITIA WHEN CALLED INTO ACTUAL SERVICE."

Preamble.

Whereas the laws for regulating & governing the Militia of this Commonwealth have become too complicate for

practical use, by reason of the several alterations which have from time to time been made therein; — Therefore

Be it Enacted by the Senate & House of Representatives in General Court assembled & by the authority of the same that the several laws heretofore made for governing & regulating the militia be, and hereby are repealed, except an Act intituled “An Act for establishing rules and articles for governing the troops stationed in forts and garrisons within this Commonwealth and also the militia when called into actual service” *provided nevertheless* that all officers actually in commission, agreeably to the laws which are hereby repealed, & in grades which are established by this Act shall continue in commission in the same manner, and in the same authority they would, in case the said laws were still in force; and all actions depending in any Court by force of said laws shall and may be prosecuted to final judgment and execution.

Laws repealed.

Proviso.

And be it enacted by the authority aforesaid that each and every free, able bodied white male citizen of this or any other of the United States residing within this Commonwealth who is, or shall be of the age of eighteen years & under the age of forty five years (except as is herein after excepted) shall severally and respectively be subject to the requisitions of this act, and shall be enrolled in the militia by the Captain or Commanding Officer of the Company within whose bounds such citizen shall reside within three months from and after the passing this act; And it shall be at all times hereafter the duty of the commanding officer of every such company to enroll every such citizen as aforesaid; and also those who shall from time to time arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty five years, and not herein after excepted, shall come to reside within his bounds; and shall without delay notify such citizen of the enrollment, by a non-commissioned Officer or other person duly authorized for that purpose, by whom such notice may be proved; and in all cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the commanding Officer of the company within whose bounds he may reside.

Persons to be enrolled in the Militia.

To be notified.

And be it further enacted by the authority aforesaid, that the Vice President of the United States, members of Congress of both houses with their respective Officers,

Persons exempted from training.

Lieutenant Governor, members of the Council Senate & House of Representatives with their Officers, Secretary and Treasurer of the Commonwealth, Officers Judicial & Executive of the Government of the United States; Justices of the Supreme Judicial Court, Justices of the Courts of Common Pleas, Judges of Probate Registers of Probate, County Registers, Justices of the Peace, Sheriffs, Deputy Sheriffs, Coroners, Constables, Selectmen, Ministers of the Gospel, Elders and Deacons of Churches, Church Wardens & those of the religious denominations of Quakers & Shakers, Masters of Arts, Officers and Students at any College, also such Physicians, Surgeons, stated School Masters, Ferrymen & Millers as the Selectmen of the towns to which they shall severally belong, shall by a writing under their hands signify the expediency of exempting, persons who have by commission under any Government or Congress or by election in pursuance of the orders of any Congress of the United States or either of them held the office of a subaltern or office of higher rank, and all mariners actually employed in any sea service of any citizen within the United States in any vessel of more than thirty tons burthen, Custom House officers, all Post officers, Stage drivers actually employed in the care and conveyance of the mail, and such persons as did attain to the age of forty years before the eighth day of May One thousand seven hundred and ninety three, & also all such Manufacturers as are by any special law of the Commonwealth now exempted, shall be, and hereby are exempted from the said enrollment.

Arrangement
of the Militia.

Providso.

And be it further enacted by the authority aforesaid, that the Governor by and with the advice of the Council be, and hereby is authorized and impowered to form and arrange the militia into Divisions, Brigades, Regiments and Companies and from time to time to make such alterations therein as shall be necessary, & if the same be convenient each Brigade shall consist of four Regiments, each Regiment of ten Companies, and each Company of sixty four effective privates: *Provided notwithstanding* that the present arrangement of the militia shall continue as it now is, untill the Governor with the advice of Council shall otherwise order; And each new Division, Brigade & Regiment shall be numbered at the formation thereof and a record made of such number in the Adjutant General's Office, and when in the feild or in service, each

Division, Brigade & Regiment shall respectively take rank according to its number.

And be it further Enacted by the authority aforesaid, that the militia shall be officered as follows; To each Division one Major General and two Aids de Camp with the rank of Major; to each Brigade one Brigadier General with one Brigade Inspector to serve also as Brigade Major, with the rank of Major; to each Regiment one Colo. one Lieutenant Colo., one Major; *provided nevertheless* where any vacancy of Colonel now is or shall hereafter happen, then the field Officers of each Regiment to consist of a Lieutenant Colonel Commandant & two Majors; to each company of Infantry, one Captain, one Lieutenant, and one Ensign, four Serjeants, four Corporals, one Drummer one fifer or Bugler: That there shall be a Regimental staff to consist of one Adjutant, one Quarter Master, to rank as Lieutenants, one Surgeon, & one Surgeon's mate to be appointed by the Commanding Officer of the Regiment, and commissioned by the Governor, one Serjeant Major, one Quarter Master Serjeant, one Drum Major & one Fife Major; That each company of Artillery shall consist of one Captain two Lieutenants four Serjeants, four Corporals, six Gunners, six Bombadiers, one Drummer, one Fifer, & thirty two privates or Matrosses: And each troop of Cavalry shall, consist of one Captain, two Lieutenants and one Cornet, four Serjeants, four Corporals, one Saddler, one Farrier, one Trumpeter and thirty two privates: And there shall be one Adjutant General, & one Quarter Master General for the whole militia to be appointed by the Governor.

Manner of
officering the
Militia.

And be it further Enacted by the authority aforesaid, that each and every Major General be, & hereby is empowered, and it shall be his duty to give all such orders as shall from time to time be necessary, consistent with the law, for electing Brigadier Generals, Field Officers, Captains and Subalterns, in Brigades, Regiments & Companies within his respective Division, which have not been already commissioned and for filling up vacancies of such Officers or any of them where they now are, or may hereafter happen; *Provided always,* that whenever a time shall be appointed for the election of any Officer or Officers, the electors shall have ten days notice thereof at least; and all returns of elections and neglects or refusals

Major General
empowered in
election of
Officers.

Proviso.

to make choice of Officers shall be made to the Governor by the Major General, in whose Division the election shall be ordered, and all commissions shall pass through the hands of the Major Generals to the Officers in their respective Divisions for whom they shall be made out; and every person who shall be elected to any Office in the said militia, and shall not within ten days after he shall have been notified of his election (excepting a Major General who shall be allowed thirty days after he shall be notified by the Secretary of the Commonwealth) signify his acceptance thereof shall be considered as declining to serve in such office; and orders shall be forthwith issued for a new choice.

All Officers to
subscribe the
oaths.

And be it further enacted by the authority aforesaid that every person who shall be lawfully entitled to be commissioned to any Office in the militia of this Commonwealth shall at the time of receiving his Commission take and subscribe the oaths and declaration required by the Constitution, before some Justice of the peace or some General or Field Officer, who shall have previously taken and subscribed them himself and who are hereby authorized to administer the same; and a certificate thereof shall be made upon the back of every Commission by the Justice of the Peace, or General or Field Officer, before whom the said oaths and declaration shall have been taken and subscribed.

Noncommis-
sioned Officers,
by whom
appointed.

And be it further enacted by the authority aforesaid, that the commanding officers of Regiments shall appoint the noncommissioned staff officers of their respective Regiments — The Commanding Officers of Companies shall appoint the noncommissioned Officers, including the Clerks, of the respective Companies — All noncommissioned staff officers and Serjeants shall receive Warrants under the hand of the commanding Officer of their respective Regiments or corps — And the Adjutant shall keep a record in a suitable book to be kept for that purpose, of all Warrants which shall be issued, & no noncommissioned officer shall be deemed to have resigned his office untill he shall have done it in writing to the commanding Officer of the Regiment or Corps to which he belonged, and shall have obtained his discharge also in writing from such Commanding Officer — And no noncommissioned officer or private shall be disenrolled from the militia for disability, without a certificate from the Regimental Surgeon & mate.

Resignations to
be given in
writing.

And be it further enacted by the authori[zed][ty] afore-
said that every Company shall have a Clerk, who shall be
 also one of the Serjeants, and he shall be sworn to the faith-
 ful discharge of his trust, and it shall be his duty always
 to keep a fair and exact roll of the Company together with
 the state of the arms and equipments belonging to each
 man, which Roll he shall annually revise and [*perfect*] in
 the month of May as is hereinafter directed; to Register
 all orders & proceedings of the Company in an orderly
 book which shall never be alienated from the Company;
 to keep exact details of all detachments; to call the roll
 whenever the Company is assembled; to examine the
 equipments when thereto required and to note all delin-
 quencies; to sue for, recover and receive all fines & for-
 feitures which are required by this Act to be recovered,
 one half to his own use for his trouble, and the other half
 to be paid to the Commanding Officer of the Company in
 trust for the use of the company to which he belongs, ex-
 cepting such cases wherein other provision is made by
 this act for the recovery and appropriation of fines and
 forfeitures.

Clerks to be appointed.

— Their duty.

— empowered to sue.

Appropriations.

Provided nevertheless that all commissioned Officers now
 in command in the militia in any grade not established by
 this Act shall be continued in their command and the
 Clerks of companies now in office shall be continu d in
 such office.

Proviso.

And be it further Enacted by the authority aforesaid,
 that whenever a company shall have neither commissioned
 Officers nor noncommissioned Officers the Commanding
 officer of the Regiment or Battalion to which such com-
 pany belongs shall appoint suitable persons within said
 company to be noncommissioned Officers & Clerk of the
 same, and such noncommissioned officers and Clerk so
 appointed shall be authorized in the same manner and
 have the same power and authority as if they had been
 appointed by a Captain duly qualified to command said
 company.

Noncommis-
sioned Officers
appointed in
case.

And be it further enacted by the authority aforesaid,
 that no Officer of the Militia shall be discharged except-
 ing by the Commander in chief on the request of such
 Officer in writing, or by the Commander in chief on the
 address of both Houses of the Legislature; or by being
 disbanded by a law of the Commonwealth, or by a judg-
 ment of a Court Martial; or by actual removal (the Major

Prohibitions.

General to be judge whether the distance is so great that he cannot conveniently discharge the duties of his Office;) or by twelve months absence without leave of such Officer from the district of his Command: And no Officer shall consider himself exempted from the duties of his station untill he shall have been discharged in one or other of the methods aforesaid; and if by the Commander in chief, not untill he shall have received a Certificate of such discharge: No Officer shall be allowed to resign his Commission when under arrest; and no General or Field Officer shall approve the resignation of any other Officer, untill such Officer shall have lodged in his hands all such Militia Laws and orderly books as he shall have been furnished with by the Government; and such General or Field Officer shall deliver the Laws and orderly books which he shall thus have received to the next succeeding Officer who shall be commissioned in the place of him who shall have resigned.

Cavalry
organized.

And be it further enacted by the authority aforesaid that the Governor with the advice of Council be and hereby is authorized to compleat the Cavalry in each Brigade of the Militia to two full Companies or troops; and the Cavalry in each Brigade, when compleated, shall be formed into Battallions or Squadrons — in those Brigades where there are or may be two or three Troops they shall form Squadrons, and each squadron shall be commanded by a Major; in those Brigades where there are already more than three Troops they shall form Battallions; and each Battallion shall be entitled to a Lieutenant Colonel, Major, Adjutant and Quarter Master — *Provided always* that in those Brigades where there are already two troops raised they, shall not be augmented; and in those Brigades where there are already more than two Troops, they shall not be reduced. *Provided also* that the Companies of Cavalry which are by any former Act annexed to any Regiment, shall continue to be so attached to such Regiment in which it is raised; The Officers of Cavalry shall furnish themselves with good Horses at least fourteen hands and a half high and shall be armed with a pair of Pistols and Sword; the holsters of which shall be covered with Bearskin Caps; each Horseman shall furnish himself with a serviceable Horse of at least fourteen hands and a half high, a good Saddle, Bridle, mail Pillion and Valise Holsters, a Breast Plate and Cruper, a pair of Boots and

Provisos.

Officers and
men to furnish
themselves
complete with
horses and
every other
equipment.

Spurs, a pair of Pistols, a Sabre and Cartridge Box to contain twelve cartridges for Pistols. No man shall be enlisted into any troop of Cavalry unless he shall own and constantly keep a suitable Horse and furniture for that service; and if any man who shall belong to any troop of Cavalry shall be destitute of a suitable Horse and furniture for more than three months at one time, he shall be discharged from such Corps and enrolled in the standing Company in which he resides. And whenever any draft or detachment shall be made from a troop of Cavalry for actual service, the men thus drafted or detached, shall march with their own Horses and before they march, the Horses shall be appraised by three indifferent men to be appointed by the Brigadier of the Brigade from which such detachment shall be made.

And be it further enacted by the authority aforesaid that the Governor with the advice of Council be and hereby is authorized to compleate the Artillery in each Brigade of the Militia to two full Companies, and when thus compleated shall form a Battallion in each Brigade, and be entitled to a Major, Adjutant & Quarter Master. *Provided nevertheless*, that in those Brigades where there are already two Companies raised, they shall not be augmented; and in those Brigades where there are already more than two Companies, they shall not be reduced. And each Company of Artillery shall be provided with two good field pieces with Carriages and Apparatus compleat, an Ammunition Cart, forty round Shott, and forty rounds of Cannister Shott. The Governor shall order to be issued to each Company of Artillery annually a quantity of Powder not exceeding One hundred pounds which shall be expended on General Muster days and in experimental Gunnery. And the Quarter Master General shall provide for and supply the Artillery Companies with all the Carriages, Tumbrils, harness apparatus, implements, laboratory, and Ordnance Stores, which may from time to time be necessary for their equipment. The Officers of Artillery shall be armed with a Sword, a hanger, a fuzee, Bayonet, and Belt with a Cartridge Box to contain twelve Cartridges; and each non-commissioned Officer and Private or Matross, of those Companies which are unprovided with field pieces, shall furnish himself with all the equipments of a Private in the Infantry, untill proper Ordnance and Field Artillery is provided. And the Commanding

Artillery
organized.

Proviso.

— to be provided with complete apparatus

Quarter Master
General to
furnish equip-
ment.

Commanding
Officers to be
accountable.

Artillery and
cavalry to be
formed of
volunteers.

Light Infantry
companies.

Penalty.

No corps to be
raised at large
which will re-
duce standing
companies to
a limited num-
ber.

— to be deemed
disbanded in
case.

Officers of each Company of Artillery shall be accountable for the careful preservation of the pieces and Apparatus, and the proper expenditure of the Ammunition supplied by Government. Each Company of Artillery and Troop of Cavalry shall be formed of volunteers from the Brigade, and together they shall not exceed in number one eleventh part of the Infantry of such Brigade; and they shall be uniformly clothed in Regimentals to be furnished at their own expence.

And be it further enacted by the authority aforesaid, that at all Regimental Musters, the Companies Commanded by the two eldest Captains shall act as light Infantry Companies, except where Light Infantry Companies have already been raised by voluntary enlistment, and one or more shall be attached to such Regiment.

And be it further Enacted by the authority aforesaid, that if any Non-commissioned Officer or private of Cavalry, Artillery, Light Infantry or other corps raised at large shall neglect for the term of three months to keep himself provided with an uniform of the company to which he belongs as is directed by this act, he shall be discharged from such corps, by the Brigadier commanding the Brigade, and enrolled in the standing company in which he resides. And no company of Cavalry, Artillery, Light Infantry, or other Corps which it may be lawful to raise at large, shall be raised within this Commonwealth, when any of the standing companies will be reduced thereby to a less number than sixty four effective privates; & no Officer of any such corps shall enlist any men belonging to a standing company for the purpose of forming or recruiting such corps raised at large, when by means thereof, such standing company would be reduced to a less number than sixty four effective privates — And if any such corps raised at large shall at any time be destitute of commissioned officers, & shall neglect to fill up such vacancies for one whole year after being ordered to elect them, or if any such corps shall be reduced under twenty privates & remain in that situation for one whole year without doing duty as the Law directs; then in either case as aforesaid such corps raised at large shall be deemed disbanded; & the men which belonged to such delinquent Corps, shall be enrolled in the standing company in which the individuals thereof shall respectively reside; And no such Corps raised at large, shall at any

time bear a greater number of men on their rolls, than the Law allows necessary to constitute them; and the commanding officer of every such corps shall annually in the month of April, make out a list of all the mens names belonging to his corps, & deliver the same to the commanding officer of the Regiment or Battalion in whose District such Corps is or may be raised; — and all such Corps raised at large not annexed to any particular Regiment shall be subject to the orders of the Commanding Officer of the Brigade in which they shall respectively be raised, & shall make their Elections & returns in the same manner as other Corps of the Militia.

— not to consist of a greater number than legally allowed.

And whereas the Military Company in Boston, commonly called the “Ancient & Honorable Artillery Company” being by ancient Charter, custom & usage exempted from the general regulations of the Militia, therefore

Ancient and Honorable Artillery Company.

Be it further Enacted by the authority aforesaid, that the said Company called the “Ancient & Honorable Company of Artillery” shall retain its accustomed privileges, not being incompatible with the Constitution, but shall be subject to all other duties required by this Act, in like manner as other Companies of Militia.

— to retain privileges.

And be it further Enacted by the authority aforesaid, that every Commissioned Officer of Infantry whose duty shall require him to serve on foot, shall be armed with a Sword & an Esponton; & every Officer whose duty requires him to be mounted, shall be armed with a Sword & pair of Pistols; — And the Uniform in every instance required by this Act shall be a dark blue cloth coat, of such fashion & with such facings & under-cloaths as the Major Generals or Brigadiers shall direct within their several commands.

Officers, how to be armed and uniformed.

And be it further Enacted by the authority aforesaid, that every Non-Commissioned Officer & private of the Infantry shall constantly keep himself provided with a good Musquet, with an iron or steel rod; a sufficient bayonet & belt, — two spare flints, a priming wire & brush & a knapsack; — a cartridge box or pouch with a box therein to contain not less than twenty four cartridges suited to the bore of his Musquet; — each cartridge to contain a proper quantity of powder & ball, or with a good rifle, knapsack, shott-pouch, powder horn, twenty balls suited to the bore of his rifle, & a quarter of a pound of Powder — And shall

Necessary articles of equipment.

appear so armed, accoutred & provided whenever called out, except that when called out to exercise only, he may appear without a knapsack & without cartridges loaded with ball; *provided always*, that whenever a man appears armed with a musquet, all his equipments shall be suited to his musquet; & whenever a man appears armed with a rifle all his equipments shall be suited to his rifle — And that from and after five years from the passing of this Act, all Musquets for arming the Militia as herein required shall be of bores sufficient for balls of the eighteenth part of a pound. And every Citizen enrolled and providing himself with the Arms, Ammunition and Accoutrements required as aforesaid shall hold the same exempted from all suits, distresses, executions, or sales for debt or for payment of Taxes.

Proviso.

Arms &c. to be exempted from suits.

Fine for neglect.

Parents and masters to equip their children & servants.

Persons unable to equip themselves to be furnished arms &c by the town.

Penalty, in case.

And be it further enacted by the authority aforesaid, that every non-commissioned Officer or private of the Infantry who shall neglect to keep himself armed and equipped as aforesaid, or who shall on a Muster day, or at any other time of examination, be destitute of, or appear unprovided with, the Arms and Equipments herein directed (except as before excepted) shall pay a fine not exceeding twenty shillings in proportion to the Articles of which he shall be deficient, at the discretion of the Justice of the Peace before whom trial shall be had. And all Parents, Masters and Guardians shall furnish those of the said Militia who shall be under their care and command, with the Arms and Equipments aforementioned, under the like penalties for any neglect. And whenever the selectmen of any Town shall judge any Inhabitant thereof, belonging to the Militia, unable to Arm and equip himself in manner as aforesaid, they shall at the expence of the Town provide for and furnish such inhabitant with the aforesaid Arms and equipments which shall remain the property of the Town at the expence of which they shall be provided; and if any Soldier shall embezzel or destroy the Arms and Equipments with which he shall be so furnished, he shall, upon conviction before some Justice of the Peace, be adjudged to replace the Article or Articles which shall be by him so embezzeled or destroyed, and to pay the cost arising from the process against him; And if he shall not perform the same within fourteen days after such adjudication, it shall be in the power of the Selectmen of the Town to which he shall belong, to bind him

out to service or labour, for such term of time as shall, in the discretion of the said Justice, be sufficient to procure a sum of money equal to the value of the Article or Articles so embezzled or destroyed, and pay cost arising as aforesaid.

And be it further enacted by the authority aforesaid, that every person liable to do military duty, who being duly warned shall refuse, or neglect to appear at the time, and place appointed, armed, and equipped as by this act is directed for any muster, training, view of Arms, or other military duty, shall pay as a fine for such default the sum of ten shillings — And every person who shall appear at any muster with his arms in an unfit condition shall pay a fine of three shillings for each, and every such default — *provided nevertheless,* it shall be lawfull for the commanding officer of a company at any time within eight days after any muster, training view of Arms, or other duty, to excuse any person for non-appearance, on the delinquent's producing to him satisfactory evidence of his inability to appear as aforesaid: and the commanding officer of the company shall certify the same to the clerk within the time above mentioned, and the clerk shall not thereafter commence any prosecution against such delinquent for his fine for non-appearance as aforesaid —

Penalty for not appearing on muster days.

Proviso.

And be it further enacted by the Authority aforesaid, that whenever the commanding officer of a company shall think proper to call his company together, or shall be ordered by his superiour officer to do it, he shall issue his orders therefor to one, or more of the non commissioned officers, if there be any, if not, to one, or more of the privates belonging to his company, directing him, or them to notify, and warn, the said company to appear at such time and place as shall be appointed — and every such person, or persons, who shall receive such orders, shall give notice of the time, and place appointed for assembling said company to each, and every person, he or they shall be so ordered to warn, either by verbal information, or by leaving a written, or printed notification thereof at the usual place of abode of the person thus to be notified, and warned; and no notice shall be deemed legal for musters for the purpose of common, and ordinary trainings, unless it shall be given four days at least previous to the time appointed therefor; but in case of invasion, insurrection, or other emergency, any time specified in

Clerk to notify.

Manner of notification.

Penalty.

the orders shall be considered as legal, — and every non commissioned officer, or other person, who shall neglect to give the said notice, and warning when ordered thereto by the commanding officer of the company, to which he belongs, shall for such offence forfeit, and pay as a fine a sum not exceeding forty shillings, nor less than twelve shillings at the discretion of the justice of the peace before whom trial shall be had: And the testimony of any person under Oath who shall have received orders agreeable to Law for notifying and warning any company, or part thereof, to appear at a time and place appointed for any muster, view of arms, or other military duty shall be sufficient to prove due notice was given to the party against whom complaint may be made, unless such testimony shall be invalidated by other sufficient evidence.

Companies
destitute of
commissioned
Officers, how
warned.

And whenever a company shall be destitute of commissioned officers and the commanding officer of the Regiment, or Battalion, to which such company belongs shall think proper to call out such company, he shall direct his orders to one, or more of the non-commissioned officers of said company, who shall have full power and authority to warn, assemble, lead, order, exercise, and govern said company, conformably to the orders which he or they shall thus receive from their superiour officer for that purpose. *Provided always*, when in Regiment or Battalion, it shall be lawful for the commanding Officer present to order a commissioned officer to command such company, while acting in conjunction with other corps —

Proviso.

Penalty for
disorderly
behaviour.

And be it further enacted by the authority aforesaid, that every non-commissioned officer, and private of the militia, who shall be disorderly, or disobedient, or guilty of unmilitary conduct, on a muster, or training day, or at any other time when on duty, shall be confined during the time of said muster, or training at the discretion of his officers, and shall pay a fine not exceeding forty shillings, nor less than twelve shillings at the discretion of the Justice of the peace to whom complaint shall be made.

Fines, how
recovered.

And be it further Enacted by the authority aforesaid, that whenever any non-commissioned officer, or private in the militia, shall forfeit any sum of Money set, and affixed to any default, or offence by this act of the sum of four pounds, or under, the same shall be recovered in the manner following; that is to say; The Clerk of the company to which the offender belongs shall, after the expiration

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of eight days, and within sixty days after the offence shall have been committed, make complaint thereof, and of all matters of substance, and material circumstances attending the same to some justice of the Peace in the County, where such offender shall live, who shall make record thereof, and shall issue a summons to the party complained of, to be served seven days at least, before the time appointed for the trial in the form following, *mutatis mutandis* —

— SS.

[L. S.] To the Sherrif of the said County, or his Deputy, or either of the Constables of the Town of _____ within the same County

GREETING —

In the name of the Commonwealth of Massachusetts you are hereby required to summon C. D. of _____ in the county of _____ to appear before me E. F. one of the justices of the Peace for the County aforesaid, at _____ on the _____ day of _____ at _____ of the Clock in the noon; then and there to shew cause, if any he has, why a warrant of distress shall not issue against him [Here insert the complaint] Hereof fail not, and make due return of this writ and of your doings therein unto myself at, or before the said _____ day of _____.

Form of the summons.

Dated at _____ aforesaid the _____ day of _____ in the year of our Lord _____.

E. F. *Justice of the Peace.*

And when the said party shall by himself, or his attorney appear accordingly, he may plead the General Issue, and give any special matter in Evidence; and if the said party shall make default, or if Judgment shall be given against him, and he shall neglect for four days thereafter, to satisfy the same with legal costs, then the Justice of the Peace before whom trial shall be had, shall issue his warrant of distress under his hand and seal in the form following

— SS.

[SEAL.] To the Sherrif of the said County, or his Deputy or any or either of the Constables of the Town of _____ within the same County —

GREETING —

Whereas C. D. of _____ upon the _____ day of _____ being a private soldier in the train band (as the case may be) of the Company of foot commanded by _____ in the Regiment of militia in the said County of _____ commanded by _____

Form of the warrant of distress.

was duly notified to appear upon the day of in the town of in the County aforesaid with his Arms, and equipments as the law of this Commonwealth directs; and the said C D in violation of the said Law, did unnecessarily neglect to appear (or did not appear armed, and equipped as the case may be) whereby he hath forfeited, and ought to pay the sum of shillings to the uses directed by Law: and the said C. D. having been duly summoned to appear before me E. F. one of the Justices of the Peace for the County aforesaid, to shew cause, if any he had, why a warrant of distress should not be issued for the same Sum did not appear (or appearing, did not shew sufficient cause why the same warrant should not be issued, as the case may be,) In the name of the Commonwealth of Massachusetts, you are therefore commanded forthwith, of the Goods, or chattels of the said C. D within your precinct to levy by distress and sale thereof the aforesaid Sum of shillings with for charges of suit being in the whole the Sum of and to pay the same to Clerk of the aforesaid Company, and also of the Goods, Chattels of the said C. D to levy for this Writ together with your own fees, and for want of such goods or chattels of the said C D to be by him shewn to you, or found within your Precinct, you are comanded to take the Body of the said C D. and him committ to the Common Goal in in the County aforesaid; and the Keeper thereof is hereby commanded to receive the said C D into the said Goal, and him safely keep, untill he shall pay the sum aforesaid together with legal fees and costs, or untill he shall be otherwise discharged by order of Law; and you are to make return of this warrant with your doings therein unto myself, within twenty days next coming for which this shall be your sufficient Warrant — Hereof fail not.

Given under my hand and Seal the day of in the Year of our Lord.

E. F. *Justice of the peace.*

Companies to
be mustered at
stated times for
examination.

And be it further enacted by the authority aforesaid,
That every Captain or Commanding Officer of a Company, shall call his Company together three days in each year for company discipline; and once on the first Tuesday of May annually for the express purpose of examining and taking an exact account of every mans arms and equip-

ments, at which time every article required by this Act shall be brought to the place of examination; and it shall be the duty of the Clerk or in his absence of some other person to be appointed on the occasion for the time only by the commanding Officer for that purpose, to make out an exact Roll of the Company, and set against every mans name, the Arms and Equipments which shall belong to him: and every commanding Officer of a Company shall constantly keep by him a Roll, with the Arms and Equipments of every man annexed to his name as aforesaid, from which all detachments shall be regularly detailed, and the annual Return of the company made; and the said Roll shall be annually revised, corrected and completed, on the first Tuesday in May as aforesaid. And every person liable to do duty in the Militia, who shall be absent at the examination or view of Arms in the month of May as aforesaid, and shall not send his Arms and Equipments to be examined at the time and place appointed, he shall be fined for every Article required in this Act, not so brought or sent to be examined, as is herein before directed, besides the sum of ten shillings for non-appearance as aforesaid.

Commanding
Officers to keep
a roll.

Fines in case
of neglect.

And be it further enacted by the authority aforesaid, That every Captain or Commanding Officer of a Company shall make a Return of the state of his Company, comprehending every man belonging to said Company with all the Arms and Equipments belonging to them, to the commanding Officer of the Regiment in the month of May annually: Every commanding Officer of a Regiment shall make a Return of the state of his Regiment to the Brigadier in the month of June annually: And every commanding Officer of a Brigade shall make out duplicate Returns of his Brigade, one of which he shall transmit to the Major-General of the Division to which he belongs, and the other to the Adjutant-General of the Commonwealth in the month of July annually.

Commanding
Officers to make
regular returns
annually.

And be it further enacted by the authority aforesaid, That the Adjutant General shall be Commissioned with the rank of Brigadier General, and it shall be his duty to distribute all Orders from the Commander in Chief of the Militia to the several Corps: to attend all public Reviews when the Commander in Chief shall Review the Militia, or any part thereof: to obey all Orders from him relative to carrying into execution and perfecting the System of

Rank and duty
of Adjutant
General.

Military Discipline established by this Act: to superintend the annual Inspection of the Militia: to furnish blank forms of the different Returns that may be required, and to explain the principles on which they should be made: to keep such Rosters and Records as are proper to be kept in his Office; to receive from the several Officers of the different Corps throughout the state, Returns of the Militia under their command reporting the actual situation of their Corps, their Arms, Ammunition, and Accoutrements, their delinquencies, and every other thing which relates to the general advancement of good order and discipline; all which the several Officers of the Divisions, Brigades, Regiments, Battalions and Companies are hereby required to make in the usual manner, or as the Commander in Chief shall direct; so that the said Adjutant General may be duly furnished therewith: from all which Returns he shall make proper Abstracts, and a General Return of the whole Militia of the Commonwealth, and lay the same before the Governour or Commander in Chief, and to forward a duplicate thereof to the President of the United States.

Duty of Brigade
Inspector.

And be it further enacted by the authority aforesaid, That it shall be the duty of the Brigade Inspector to attend the Regimental and Battalion meetings of the Militia composing the several Brigades to which they belong, during the time of their being under Arms; to inspect their Arms and Equipments; to superintend their exercise and manœuvres, and introduce the System of Discipline established by this Act; to obey all Orders they may from time to time receive from the Commander in Chief or others their superior Officers; to make Returns to the Adjutant General at least once in a year, and at such other times as shall be required, of the Militia of the Brigades to which they severally belong, reporting therein the actual situation of the Corps, their Arms, Ammunition and Accoutrements and every other thing which they may be required to report; or which in their judgment may relate to their government, and the general advancement of good order and military discipline.

Rules and regu-
lations of disci-
pline for the
Militia.

And be it further enacted by the authority aforesaid, That the Rules of Discipline approved and established by Congress in the Resolutions of the twenty ninth day of March one thousand seven hundred and seventy nine, shall be the Rules and Regulations of Discipline to be

observed by the Militia of this Commonwealth, except such deviations from said Rules as may be necessary by the requisitions of this Act. or some other unavoidable circumstances; and every Officer receiving a Commission in the Militia shall immediately provide himself with a Book containing those Rules.

And be it enacted by the authority aforesaid, That every Regiment of Militia of this Commonwealth, shall be assembled in Regiment, once in two Years, for Review, Inspection and Discipline, on such days as the Commanding Officers of the several Divisions or Brigades shall Order: (the commanding Officers of Regiments to point out the place) And the Militia of every Town shall be assembled together once in two years, (the year it is not mustered in Regiment) at such time and place as the Commanding Officer shall Order, and shall be instructed and disciplined under the direction of a Field Officer.

Provided nevertheless, in new settlements where the dispersed situation of a Regiment may oblige men to march twenty miles or more to the place of parade, it shall be at the discretion of the commanding Officer of the Regiment to muster the Militia in such settlements either by Regiment, by Towns, or other convenient bodies. And every non-commissioned Officer and Private shall come to the place of parade with necessary refreshment for said day at his own expence. The Cavalry and Artillery, and other Corps raised at large, shall also be reviewed and inspected once in every Year, either with the Regiments and Battalions, or by themselves, as the Major Generals or Brigadiers shall Order, and at such times and places, as they shall direct. And each commanding Officer of a Corps when on duty shall have full power and authority to ascertain and fix certain necessary limits and bounds to their respective parades (no road in which people usually travel to be included) within which no Spectator shall have right to enter without liberty from said commanding Officer; and in case any person shall so intrude within the lines of the parade after being once forbidden, he shall be subject to be confined under guard during the time of exercise at the discretion of the commanding Officer. And whenever different Corps shall be assembled together the senior Officer present shall command without any regard to Corps whatever. And all Officers when on duty shall take Rank according to the

Time and manner of mustering Militia.

Provide.

Reviews of cavalry and artillery.

Parades to be limited and cleared of spectators.

Senior Officer to command, in case —
Officers to rank from date of commissions.

dates of their Commissions; and when two of the same grade bear an equal date, and former pretensions of some Commission do not decide, then their Rank shall be determined by lot, to be drawn by them before the commanding Officer present; and when on Court Martial before the President thereof.

And be it further enacted by the Authority aforesaid, that every Captain or commanding Officer of a Company who shall neglect or refuse to call out his company as often as the law requires for discipline and on the first Tuesday of May for a view of Arms as directed by this Act, or at any other time when thereto required by his superior Officer; or who shall at any time excuse his men for unnecessary absence, or deficiency, shall be tried by a Court-martial, and if thereof convicted he shall be reprimanded in orders, or removed from Office at the discretion of said Court.

Companies,
how to rank

And be it further enacted by the Authority aforesaid that at any Regimental muster the severall companies shall form in regiment according to the rank of the Officers commanding them: and the same Rule shall Apply whenever different corps are assembled together, excepting so far as by custom usage & Necessity Cavalry Artillery and Light troops may be detached from the Battalions.

Penalty for not
marching with
detachments,
when ordered.

And be it further Enacted by the Authority aforesaid that whenever in case of threatened or actual Invasion, insurrection or other public danger or emergency the Militia or any part thereof shall be ordered out or detached, if any person who shall be ordered out or detached in obedience to such orders being duly notified thereof and ordered to march to the place of rendezvous shall neglect or refuse to obey such orders or shall not within twenty four hours after he shall have been notified as aforesaid pay a fine of ten pounds to the commanding Officer of the company to which he belongs or procure an able bodied man in his stead such person shall be considered as a soldier in such detachment and be dealt with accordingly.

Proviso.

Punishment for
absconding.

Provided always that whenever a detachment is made the Officers, noncommissioned Officers and privates being able of body shall be detailed from the Rosters or Rolls which shall be kept for that purpose: and any person who by absconding, after being detached as aforesaid, or by deserting from such detachment, shall attempt to evade the punishment by law provided for desertion he shall pay a fine of twelve pounds to be sued for and recovered

by the clerk of the Company to which such person belongs any time within twelve months after the discharge of such detachment, said fine to be disposed of for the purpose of paying such men as shall be hired or drafted into service. And any Officer holding a Commission in the Militia who shall Neglect or refuse to execute any orders he may receive from his superior Officer to make a detachment of the Corps under his command it shall be the duty of the officer who issued such orders, immediately to arrest such delinquent Officer, bring him to trial therefor before a Court martial, and forthwith give information thereof to the Commander in chief; and the officer who issued the Order which shall not have been executed as aforesaid shall immediately after arresting the delinquent Officer proceed by himself or some other officer under his command to make and compleat the detachment ordered as aforesaid. And when any Regiment or Company shall not be organized the officer issuing the orders for such detachment shall by himself or some other Officer under him proceed to make and Compleat the detachment from any part of the Militia of such unorganized Corps.

Delinquent
officers, how
punished.

And be it further enacted by the Authority aforesaid, that whenever the Militia or any part thereof of any town shall be ordered to march for the immediate defence of this state, each officer & soldier shall provide and take with him three days provision unless otherwise ordered; and the selectmen of such town shall cause carriages to attend them with further supplies of provision and Camp Utensils, until notice shall be given them to desist by the commanding officer of the Militia detached. And the selectmen shall prefer their Accounts for such supplies to the General Court for allowance and payment— And whenever the selectmen of any town or district from which a detachment shall be ordered shall be Notified by any officer duly Authorized thereto and shall neglect or refuse to furnish such supplies and Utensils the Towns or districts to which such selectmen belong shall pay a fine not exceeding fifty pounds to be sued for and recovered by any person who shall prosecute for the same one moiety to the prosecutor and the other to the use of the Commonwealth and the officer to whom such camp Utensils shall be delivered shall be accountable for the same unless broken or lost by some unavoidable accident not in his power to prevent.

Militia to pro-
vide provisions
when called out.

Selectmen
to furnish
carriages, &c.

Penalty in case.

Widows and children of persons who may be killed or wounded in actual service to receive a pension.

Be it further Enacted by the Authority aforesaid, that if any Officer non commissioned Officer or private of the Militia shall be killed or die of his wounds recieved in the service of this Commonwealth, his widow, child or children shall be entitled to similar relief, and under the same regulations and restrictions as is provided by Law in such cases for the relief of widows & orphans of persons killed or dying of wounds recieved in the service of the United States. And if any Officer, non commissioned Officer or private of the Militia shall be wounded or otherwise disabled in the service of this Commonwealth, he shall be entitled to similar relief and under the same regulations & restrictions as is provided by law in such cases for the relief of persons wounded or disabled in the service of the United States.

Court Martial how appointed, and by whom.

And be it further Enacted by the Authority aforesaid, That the Governour or Commander in chief shall appoint Courts martial for the trial of all Officers above the rank of Captain: That the Major Generals or commanding Officers of Divisions each within his own division shall appoint courts martial for the trial of Captains and all Officers under that rank. And it shall be the duty of every Officer who shall appoint a court martial as aforesaid to approve or disapprove of every sentence of such court martial by them appointed. And no Officer who shall appoint a Court-martial shall be president thereof nor shall any sentence be put in Execution untill it shall have been approved of as aforesaid. No court martial shall consist of a less number than thirteen Commissioned Officers the president of which shall not be under the rank of a field Officer; and no field Officer shall be tried by any person under the degree of a Captain; and all Officers shall take rank by seniority of Commission without regard to Corps, and the Officer who shall appoint a Court-martial shall at the same time appoint a suitable person for a Judge Advocate; whose duty it shall be impartially to state the evidence both for and against the Officer under trial; to take accurate minutes of the evidence and all the proceedings of the court all of which he shall transmit with the Judgement of the court thereon under seal to the Officer whose duty it is to approve or disapprove of such Judgement. Every officer to be tried shall have ten days Notice given him of the time and place appointed for trial. And every officer to be tried shall be put in ar-

Judge Advocate to be appointed — his duty.

Officers to be tried, to have due notice. — to be arrested.

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rest so as to be suspended from the exercise of his Office, and shall have a Copy of the charges Exhibited against him ten days before the sitting of said Court, and in case any Officer for the trial of whom a Court martial shall be appointed, shall neglect to appear and make defence, he shall be deemed by said Court guilty of the Charge and shall be sentenced accordingly. In every Court Martial held for the trial of an Officer, not less than two thirds of the members must agree in the sentence or Judgment of said Court, otherwise the person charged shall be acquitted. All proceedings and trials by Court Martial shall be carried on in the day time; and when the members shall be required to give their votes on a question or decision, they shall begin with the Youngest in Commission first. All persons shall be holden to appear and give evidence before any Court Martial under the same penalties for neglect as are by law provided for witnesses in other cases, when thereunto summoned by a Justice of the Peace for such service. And all witnesses shall be sworn by the Judge Advocate before they give their evidence to the Court. Before any Court Martial shall proceed to the Trial of any Officer, the Judge Advocate shall administer to the President and each of the members the following Oath *Viz* —

Judgment of
Court Martial,
— how deter-
mined.

Persons to give
evidence under
penalties.

Judge Advocate
to administer
the Oath.

You A. B. do swear that you will well and truly try the cause now before you, between this Commonwealth, and the person to be tried; and you do further swear that you will not divulge the sentence of this Court Martial until it shall be approved or disapproved of; and that you will not on any account at any time whatever discover the vote or opinion of any member unless required to give evidence thereof as a witness by a Court of Justice in a due course of law. So help you GOD.

And the President shall administer to the Judge Advocate the following Oath *Viz* —

You A. B. do swear that you will not on any account at any time whatever divulge the vote or opinion of any member of this Court Martial, unless required to give evidence thereof, as a witness by a Court of Justice in a due course of Law.

Oath adminis-
tered to the
Judge Advo-
cate.

So help you GOD.

And be it further enacted by the authority aforesaid, that every Officer holding a Commission in the Militia,

Officers guilty
of unmilitary

conduct, to be
tried by a Court-
Martial;

— and removed
from office.

Towns to be
provided with
military arti-
cles.

Penalty in case
of neglect —

how recovered.

Brigade
Inspector to
inspect town
magazines &c.

Penalty for
firing on a
muster day,
without or-
ders —

who shall be accused of any unmilitary conduct, neglect of duty, or disobedience of Orders; or who shall when on duty appear or behave himself in an unofficer like manner, or shall wilfully injure those who are under his command, he shall be liable to be tried by a Court Martial, and if found guilty to be sentenced by said Court to be reprimanded in Orders, or to be removed from Office. And whenever a Court Martial shall sentence any Officer to be removed from Office, the Court shall therein adjudge such Officer incapable of holding any military Commission under this Commonwealth for life, or for years, according to the nature and aggravation of his offence; and such sentence being duly approved of by the Officer appointing such Court Martial, shall be published and remain in full force, unless reversed, so far as respects disqualification, by the General Court:

And be it further enacted by the authority aforesaid, That every Town within this Commonwealth shall be constantly provided with Sixty four pounds of good gun powder, one hundred pounds of musquet balls, one hundred Flints, and three Tin or Iron Camp Kettles for every sixty four Soldiers in the Militia of such Town enrolled as aforesaid, and the same proportion of each of the aforesaid Articles for a greater or lesser number. And every Town which shall neglect to keep constantly provided with the said Articles, shall forfeit and pay for the use of the Commonwealth for every sixty four men in such Town which shall be unprovided with the said Articles, the sum of six pounds; to be recovered by presentment in the Court of General Sessions of the Peace in the County to which such Town shall belong; And it shall be the duty of the Brigade Inspector annually to inspect the Magazines of each Town, within the Brigade to which he belongs, and to make complaint to the Grand Jury of the County against all Towns which shall neglect to keep constantly provided as aforesaid.

And whereas the good Citizens of this Commonwealth are often injured by the discharge of single guns on a Muster day, therefore

Be it further enacted by the authority aforesaid, that no non-commissioned Officer or Private shall unnecessarily fire a musquet or single Gun, in any public road or near any house or near the place of parade, on any day, or evening succeeding the same, on which any Troop or Company shall be ordered to assemble for military duty,

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unless embodied under the command of some Officer; and if any non-commissioned Officer or private shall fire a musquet or Gun except as aforesaid, on the said day or evening succeeding without being embodied as aforesaid, he shall forfeit and pay a fine of five shillings for each and every offence as aforesaid, to be sued for recovered and disposed of in the same manner as fines for non appearance on a muster day are recovered and disposed of.

how recovered
and disposed of.

And be it further enacted by the authority aforesaid, that the Adjutant General, the Quarter Master General, Brigade Inspectors, and Adjutants of Regiments, shall receive a reasonable consideration for their services; to be allowed by the General Court. And all Officers serving on military Boards, Courts of Inquiry, and Courts Martial, shall receive pay, while necessarily employed therein, at the same rate as when in actual service: And the Adjutant General or Brigade Majors, as the case may be, shall make up pay Rolls of such military Boards, Courts of Inquiry, and Courts Martial, and lay the same before the General Court for allowance; and they shall receive payment at the Treasury of the sums so allowed, and pay the same over to the Officers who performed the service.

Certain officers
to receive pay.

Pay rolls to be
laid before the
General Court.

Approved June 22, 1793.

1793. — Chapter 15.

[May Session, ch. 15.]

AN ACT TO ESTABLISH A COLLEGE IN THE COUNTY OF BERKSHIRE WITHIN THIS COMMONWEALTH, BY THE NAME OF WILLIAMS COLLEGE.

Be it Enacted by the Senate & House of Representatives in General Court Assembled & by the Authority of the same, that there be Erected & Established in the town of Williamstown in the County of Berkshire, a College for the purpose of Educating Youth, to be called & known by the name of Williams College, to be under the government & regulation of a Body Politic & Corporate as hereafter in this Act is provided.

College
established.

And be it further Enacted by the Authority aforesaid, that John Bacon, Esquire, Reverend Daniel Collins, Israel Jones, Woodbridge Little, David Noble, Theodore Sedgwick, Tompson J. Skinner, Esquires, Reverend Seth Swift, Henry Vanscaack, Esquire, Reverend Stephen West, Doctor of Divinity, William Williams & Elijah Williams Esquires, together with the President of the said College for the time being, to be chosen as in this Act is hereafter

Persons incor-
porated.

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per cent. on the whole sum which shall come into their hands by virtue of such appointment, before each dividend made, over and above all necessary disbursements in the premises.

XXVIII. *And be it further enacted by the authority aforesaid*, That any judge or judges, mayor or recorder, who have issued any warrant or warrants, in pursuance and by virtue of any act or acts against absent, absconding or concealed debtors, may proceed thereon by virtue of this act; and that trustees appointed by any of the said acts, may exercise all the powers given by this act to such trustees, and shall be subject to such rules, orders and regulations, as in and by this act are appointed.

XXIX. *And be it further enacted by the authority aforesaid*, That if any person or persons shall be sued for any matter or thing done in pursuance or by virtue of this act, it shall and may be lawful for him, her or them, to plead the general issue, and give the special matter in evidence; and also that this act shall be beneficially construed for the creditors in all courts of record within this state.

§ 7th sess. ch. 54.

XXX. And whereas, by the first section of the act, entitled, *† An act to amend an act, entitled, An act for relief against absconding and absent debtors, and to extend the remedy of the act, entitled, An act for granting a more effectual relief in cases of certain trespasses, and for other purposes therein mentioned, passed May the 4th, 1784, remedy was given to creditors against debtors, designated in the said first section of the said act, with authority to proceed against such debtors in manner as nearly as may be, as is prescribed and directed in and by an act, entitled, An act for relief against absconding and absent debtors, passed 8d day of April, 1775. And whereas the act last mentioned is expired by its own limitation; Be it therefore enacted by the authority aforesaid*, That all proceedings hereafter to be had against such debtors as are particularly described in and by the aforesaid first section of the act first aforesaid, shall, as nearly as may be, be in the manner prescribed and directed in and by this act.

C H A P. XXV.

Amended,
10th sess. ch. 92.

An ACT to regulate the Militia.

Passed 4th April, 1786.

- I. **B**E it enacted by the people of the state of New-York, represented in senate, and assembly, and it is hereby enacted by the authority of the same, That
- Citizens of 16 and under 45 years of age, to be enrolled by the captain of the beat. every able-bodied male person, being a citizen of this state, or of any of the United States, and residing in this state (except such persons as are herein after excepted) and who are of the age of sixteen, and under the age of forty-five years, shall, by the captain or commanding officer of the beat in which such citizens shall reside, within four months after the passing of this act, be enrolled in the company of such beat. That every captain or commanding officer of a company, shall also enrol every citizen as aforesaid, who shall, from time to time, arrive at the age of sixteen years, or come to reside within his beat, and without delay notify such enrolment to such citizen so enrolled, by some non-commissioned officer of the company, who shall be a competent witness to prove such notice. That all disputes which may happen with respect to the age or ability of any person to bear arms, shall be determined by the captain or commanding officer of the company, with a right of appeal by the person who may conceive himself aggrieved, or by any other person be

longing to the company, to the colonel or commanding officer of the regiment. That every citizen so enrolled and notified, shall, ^{Militia how to be armed and accoutred.} within three months thereafter, provide himself, at his own expence, with a good musket or firelock, a sufficient bayonet and belt, a pouch, with a box therein to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge containing a proper quantity of powder and ball, two spare flints, a blanket and knapsack; and shall appear so armed, accoutred and provided, when called out to exercise or duty, as herein after directed, except that when called out to exercise only, he may appear without blanket or knapsack. That the commissioned officers shall be respectively armed with a sword or hanger, and an esponton. That the commander in chief for the time being shall, by general orders, arrange the whole militia into commands, as nearly equal as conveniently may be, of brigades, regiments and companies, and may, from time to time, alter such arrangements as he shall think proper; and that to each brigade of infantry there shall be one company of artillery, and one troop of horse. That each regiment of infantry shall consist of two battalions, each battalion to be composed of four companies, and each company of

One captain,	Four corporals,
One lieutenant,	One drummer,
One ensign,	One fifer,
Four sergeants,	

Serjeants, corporals, drummers and fifers, to be appointed by the captain.

And not less than sixty-five privates, as nearly as local circumstances will admit. The serjeants, corporals, drummers and fifers to be, from time to time, appointed by the captain or commanding officers of the several companies.

And if any non-commissioned officer so to be appointed, shall refuse to accept the office to which he shall be appointed, he shall forfeit the sum of forty shillings, to be adjudged, levied and disposed of as is herein after directed, with respect to fines for neglecting or refusing to appear to exercise. That each regiment shall be commanded by three field officers, viz. One lieutenant-colonel commandant, and two majors; and that to each regiment there shall be a regimental staff, to consist of

One adjutant,	} To rank as lieutenants.
One Quarter-master,	
And one pay-master,	
One surgeon, and	
One surgeon's mate.	

And that to each regiment there shall be two light-infantry companies, composed of such active young men as shall voluntarily engage in such infantry companies, and who shall form on the flanks of the regiment, and be clothed in such uniform as is herein after directed. That four regiments thus constituted, shall form a brigade, to be commanded by a brigadier-general, who may nominate his own brigade-major, which brigade-major shall rank as captain.

That each troop of horse shall consist of

One captain,	Four corporals,
One captain-lieutenant,	One saddler,
One lieutenant,	One farrier,
One cornet,	One trumpeter, and
Four serjeants,	Forty horsemen,

Each trooper to furnish himself with a serviceable horse, at least fourteen hands high, a good saddle, bridle, housings, holsters, breast-plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, a cartouch-box to contain twelve cartridges for his pistols; and that the commissioned officers shall be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin caps.

That each company of artillery shall consist of

One captain,	Six gunners,
One captain-lieutenant,	Six bombardiers,
Three lieutenants,	One Drummer,
Six sergeants,	One fifer, and
Six corporals,	Thirty-two matrosses.

Each commissioned officer shall be armed with a sword or hanger, a fusée, bayonet and belt, and cartridge box, to contain twelve cartridges, and each artilleryman shall furnish himself, at his own expence, with all the equipments, of a private in the infantry, until proper ordinance and field artillery can be provided by the state; the drum and fife to be provided by the commissioned officers of the company. That each company of artillery and troop of horse shall be formed of volunteers from the district of the brigade, within which they reside, and shall be uniformly clothed in regimentals, to be furnished at their own expence, the colour and fashion of which to be determined by the brigadier commanding the brigade. That on every enlistment of a volunteer into the horse, artillery or light-infantry, the captains of such troops or companies respectively, shall immediately certify the same to the captain of the beat from which such volunteer shall enlist. That each regiment shall be provided with state and regimental colours, at the expence of the field officers, and each company with a drum and fife, at the expence of its commissioned officers.

Militia to rendezvous four times in a year.

† Altered, 1801, sess. ch. 92, sec. 2.

That all the militia of the state shall rendezvous four times in every year, for the purpose of training, disciplining and improving in martial exercises, twice by companies within their beats, once by regiments, and once by † brigades; the time and place of rendezvous for the companies to be appointed by the colonel or commanding officer of the regiment, and arranged on different days, that the field and staff officers may have an opportunity of attending the several companies exercised in detail, in order to introduce uniformity in the manœuvres and discipline of the regiment. That each commanding officer of a regiment shall appoint a regimental parade at some convenient place, as nearly central as may be, within the district of his regiment; and each brigadier-general shall appoint a brigade parade at some convenient place within the district of his brigade, as nearly central as may be; at which brigade parade such brigade shall rendezvous on such days as the commander in chief shall appoint by general orders; and which days shall be so arranged, that the adjutant-general may be enabled to visit and review them at their respective brigade parades. That there shall be an adjutant-general of the militia, whose duty shall be to distribute all orders from the commander in chief to the several corps, and once in every year review the brigades; to attend the respective brigades on their respective parades; and the regiment of infantry, and companies of artillery and cavalry, during the time of their being under arms, pursuant to this act; and shall inspect their arms, ammunition, accoutrements and clothing; superintend their exercises and manœuvres, and introduce a system of military discipline throughout the state, agreeable to such orders as he shall

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from time to time, receive from the commander in chief; to furnish blank forms of different returns that may be required, and explain the principles on which they shall be made; that within three weeks after he shall have finished his annual review, he shall deliver to the commander in chief, a return of all the militia of the state, reporting the actual situation of the arms, accoutrements and ammunition of the several corps, their delinquencies, and every other thing which in his judgment may relate to their police, and the general advancement of good order and military discipline; that he shall have the rank of lieutenant-colonel, and shall be allowed, as a full compensation for all the services he is required to perform by this act, at and after the rate of two hundred and fifty pounds for every year. That to every brigade there shall be an inspector, to rank as major, whose duty it shall be to attend the regimental parades, and shall then and there inspect their arms, ammunition, accoutrements and clothing; superintend their exercises and manœuvres, and introduce a proper system of military discipline throughout his brigade, agreeable to such orders as he may, from time to time, receive from the adjutant-general. That at the annual brigade rendezvous,

Light-infantry companies, at the annual review, to be formed into a regiment.

Altered, 18th Feb. ch. 92, sec. 2.

the light-infantry companies of the regiments composing the brigades, shall be formed into a regiment, to be commanded by such field officers as the commanding officer of the brigade shall appoint for that service. That when so embodied, they shall continue together at least four days, and perform such manœuvres and evolutions, under the direction of the adjutant-general, as he shall assign them. That the artillery company and troop of horse belonging to each brigade, shall, during such service, be attached to and remain with the regiment of light-infantry, and be subject to the orders of the commanding officer thereof. That every regimental commissioned officer shall report his acceptance of his appointment, within ten days from his receiving notice thereof, to the commanding officer of the regiment, who shall, in like manner, within ten days, make return thereof to his brigadier. The commissioned officers of cavalry and artillery shall also notify the acceptance of their appointments, within ten days after they have received notice, to their captains, and the captains shall make similar returns to their brigadiers within ten days. That a general court-martial shall consist of thirteen

General court-martial.

commissioned officers, who shall appoint their own judge-advocate; which judge-advocate shall tender to each member, and each member is hereby enjoined to take the following oath;

YOU do swear, That you will, well and truly try and determine, according to evidence, the matter now depending between the people of the state of New-York, and the prisoner or prisoners to be tried; and you do further swear, That you will not divulge the sentence of the court, until the same shall be approved of, pursuant to this act; neither will you, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof by a court of justice, in a due course of law. So help you God.

And the president is hereby authorized to tender to the judge-advocate, who is hereby enjoined to take the following oath:

YOU do swear, That you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a

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Witness, by a court of justice, in a due course of law; and that you will not divulge the sentence of this court, until the same shall be approved, pursuant to this act. So help you God.

Commissioned officers when convicted how to be punished.

That every commissioned officer who shall be convicted by a general court-martial, of having refused or neglected to perform any of the duties of his office, shall be punished according to the nature and degree of his offence, at the discretion of the said court, either by fine or removal from his office. Provided, No fine shall exceed ten pounds for the first offence, or fifty pounds for any subsequent offence; which fine shall be levied and collected by warrant under the hand and seal of the commanding officer of the brigade, directed to any serjeant of the regiment to which such officer, on whom such fine is imposed, may belong, in like manner as the fines herein after mentioned to be recovered of non-commissioned officers and privates, for neglect or refusal of duty. That the commanding officer of a brigade may order courts-martial for the trial of offences within his brigade; the members of which shall be warned for that duty by the brigade-major, who is to keep a roster for that purpose. That the proceedings and sentence of every court-martial, by which any officer shall be removed from office, shall be in writing, signed by the president thereof; and that all proceedings and sentences shall, by the president, be delivered to the commanding officer of the brigade, to be by him transmitted to the commander in chief, who shall approve or disapprove of the same in orders; and that all other proceedings and sentences of brigade courts-martial, shall be delivered by the president thereof to the commanding officer of the brigade, who shall approve or disapprove of the same in orders. That a court-martial for the trial of general officers,

Courts-martial for the trial of general officers, how to be ordered and conducted.

shall be ordered by the commander in chief, and composed of general and field officers, who shall be warned to that duty by the adjutant-general, from a roster to be by him kept for that purpose. That the proceedings and sentences of such courts shall be transmitted by the presidents thereof, to the commander in chief, who shall confirm or disapprove of the same in general orders. Provided, That no sentence of a court-martial on a general officer, shall go farther than removal from office. That all sentences of courts-martial, by which any officer shall be removed, and which shall be approved by the commander in chief, shall, by him, from time to time, be laid before the council of appointment, to the end that the person administering the government of this state for the time being, by and with their advice and consent, may appoint others instead of the officers so removed from office. That every non-commissioned officer or private, who shall neglect to appear when warned in pursuance of this act, without sufficient excuse, shall, for every day he neglects to appear at the brigade rendezvous, forfeit the sum of twenty shillings, and shall, for every day he neglects to appear at the regimental or company parades, forfeit the sum of eight shillings; and if he shall not be armed and equipped according to the directions of this act, when so appearing, without sufficient excuse, he shall, for every deficiency, forfeit the sum of one shilling; and appearing without a musket, the sum of four shillings. That the com-

Commissions to be numbered, and officers to take rank according to such numbers.

† Altered, 1801, sess. ch. 92. sec. 3.

missions to be granted to officers of the militia, shall be numbered; and the officers of the same grade shall take rank according to the numbers marked on their respective commissions; and when officers of different corps shall meet on duty, the rank of officers of the like grade shall be determined by

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ballot, by the commanding officer of the whole then present. That one
No brigade, regi-
ment or company, en-
titled to rank. brigade, regiment, or company of foot (except the light-in-
 fantry companies herein before mentioned) shall not be con-
 sidered as older, or having rank or preference of the other ;

but each brigade, regiment, or company, shall be polled in the line, or on
 command, as the commanding officer shall think proper. That all fines aris-
 ing from offences in a company only, shall be adjudged of, and imposed by
 the commissioned officers of the said company, or the major part of them ;
 and all fines to arise from offences on calling out the regiment or brigade, with
 respect to the non-commissioned officers and privates, shall be adjudged and
 inflicted by the major part of the field officers of the regiment, and shall be
 levied, with costs, not exceeding three shillings, by warrant from the colonel
 or commanding officer of the regiment, or captain, or commanding officer
 of the company, as the case may be, directed to one or more sergeants, by
 distress and sale of the goods and chattels of the offenders respectively. And
 in case any such defaulter shall be under age, and live with his father or mo-
 ther, or shall be then an apprentice or servant, the master or mistress, or father
 or mother, as the case may be, shall be liable to pay the said fine, with costs ;
 and in default of payment, the said sergeant shall levy the same upon the
 goods and chatties of such father or mother, or master or mistress ; such

To be paid into the
treasury of this state.

Altered,
10th Ed. ch. 72, sec. 7.

City of New-York
to raise one regiment
of artillery.

fines, when recovered, to be paid by the sergeant or sergeants,
 to the officer granting such warrant, whose duty it shall be
 to account for, and pay the same to the commanding officer
 of the brigade ; and such commanding officer shall pay
 the same into the treasury of this state. That the city and
 county of New-York shall raise one regiment of artillery, to
 consist of as many companies as the commander in chief shall
 judge necessary, not to exceed four ; which companies shall consist of the
 same number of officers, non-commissioned officers, and matroses, as the ar-
 tillery companies herein before mentioned. That such regiment of artillery
 shall have three field officers, shall be armed and accoutred in the same man-
 ner as the other artillery companies mentioned in this act, until further pro-
 vision is made therein by law, and shall be called out to exercise, by orders
 from the commander in chief, at least six times in every year, and be subject to
 the same fines and penalties as are inflicted by this act for the neglect or refusal
 to do duty, or being deficient in any arms or equipments.

II. *And be it further enacted by the authority aforesaid,*

Commander in chief,
in case of invasion,
may order out the mi-
litia, &c.

That the commander in chief for the time being, may, in
 case of invasion or other emergency, when he shall judge
 it necessary, order out any proportion of the militia of the
 state, to march to any part thereof, and continue as long as he may think
 necessary ; and likewise may, in consequence of an application from the
 executive of any of the United States, on an invasion, or an apprehension
 of an invasion of such state, at his discretion, order any number of the mili-
 tia, not exceeding one third part thereof, to such state. Provided, That they
 be not compelled to continue on duty out of this state more than forty days
 at any one time : That while in actual service, in consequence of being so
 called out, they shall receive the same pay and rations, and be subject to the
 same rules and regulations, as the troops of the United States of America.

III. *And be it further enacted by the authority aforesaid,*

Certain characters
exempted from mili-
tia duty.

That the lieutenant-governor, members and officers of
 congress, and their servants not citizens of this state, mem-

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bers of senate and assembly, the clerks of senate and assembly, the chancellor, chief justice and other justices of the supreme court, judge of the court of probates, and all other judicial officers, secretary, treasurer, attorney-general and auditor of this state, surveyor-general, registers of courts, sheriffs, coroners and gaolers, two ferrymen employed to each boat, and the surrogates in the several counties, all ministers or preachers of the gospel, physicians and surgeons, except in their respective professions and callings, the professors, tutors and students of Columbia college, post-officers, and stage-drivers who are employed in conveying the mails of the post-office of the United States, all school-masters engaged for six months, the actual attendant of every grist-mill, and the fire-men of the cities of New-York and Albany, and of the township of Brooklyn; and twenty fire-men, to be from time to time appointed by the majority of the magistrates of the county of Albany, residing in the township of Schenectady, notwithstanding their being above sixteen and under forty-five years of age, shall be, and hereby are exempted from training or doing duty in the militia.

IV. *And be it further enacted by the authority aforesaid,* That all persons, being of the people called Quakers, who would otherwise be subject to military duty, by virtue of this act, and who shall refuse personal military service, shall be exempted therefrom, on paying annually the sum of forty shillings each for such exemption; such sum to be assessed on each of them respectively by the assessors, and collected by the collectors of the districts wherein they respectively reside, with the contingent charges of the county, and paid to the county treasurer, who shall pay the same into the treasury of this state, to be applied towards the support of government; and it is hereby made the duty of every captain of infantry, within three months after he shall have received his commission, and yearly and every year thereafter, on the first Monday of June in every year, to make a list of the names of all and every person and persons within his beat, who being of the people called Quakers, shall neglect or refuse personally to perform military service, and deliver such list, in the city of New-York, to the clerk of the said city, and in each of the other counties of this state, to the supervisor of the town, precinct or district where such person or persons so neglecting or refusing to perform military service, shall respectively reside. And the clerk of the said city of New-York shall forthwith, after receiving such lists, deliver the same to the mayor, aldermen and commonalty of the said city, in common council convened. And the mayor, recorder and aldermen of the city of New-York, or any three of them, in the said city, and the supervisors, or major part of them, of each of the other counties of this state, respectively, shall, at their first meeting after the delivery of such lists, cause tax-lists to be made out, according to such lists so delivered, with warrants thereon, under their hands and seals, directed to the collector of the ward, town, precinct or district in which such persons named in such lists, respectively reside, for levying the sum of forty shillings, of the goods and chattels of each of the persons named in the same lists. And the said collectors are hereby respectively authorized and required to demand and receive of each of the persons named in such tax-list, the said sum of forty shillings; and in default of payment, such collector shall levy the said sum of forty shillings, by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same; and in case any person named in such tax-list shall be under age, and live with his father or mother,

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shall be then an apprentice or servant, the master or mistress, or father or mother as the case may be, shall be liable to pay the said sum of forty shillings, for such person so under age; and in default of payment, the collector shall levy the same by distress, and the sale of the goods and chattels of such father or mother, master or mistress; and the said respective collectors shall respectively pay the said monies to the city or county treasurer, deducting their fees for collecting, on or before the first Monday in January in every year; and the county treasurers shall respectively pay the same to the treasurer of this state, deducting his fees for receiving the same, on or before the first Monday in March in every year. And the collectors and county treasurers shall have the like fees for collecting and receiving the said monies, as they are respectively entitled to for collecting and receiving the monies raised for defraying the necessary and contingent charges of the said city or counties.

[The 5th section of this act is repealed, to wit, sect. ch. 92, sec. 4, and the 6th, 7th and 8th sections are thereby become obsolete.]

IX. *And be it further enacted by the authority aforesaid,* That the commander in chief shall, from time to time, arrange the militia in two divisions, as nearly equal as circumstances in his opinion will admit of.

X. And whereas from the great extent of the counties of Washington and Montgomery, some of the inhabitants would be subject to great expence and difficulty, if they were obliged to attend at regimental and brigade parades; *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for the respective commanding officers of the militia in each of the said counties, to exempt such persons from attending regimental and brigade parades, as shall live at a greater distance than thirty miles from such parades aforesaid.

XI. And whereas, from the insular situation of the county of Richmond, it will be attended with much inconvenience and expence, if the militia thereof should be compelled, for the purpose of improving in military discipline, to attach themselves to the militia of any other county: Therefore,

Be it further enacted by the authority aforesaid, That the militia of the said county of Richmond, shall be formed

Into one regiment, to consist of as many companies as the commander in chief shall judge necessary; which regiment shall meet four times in the year, in the manner, and during the periods which the other militia of this state are directed to meet; but such regiment shall be inspected in the said county, by such inspector of the militia of the city and county of New-York, as the commander in chief shall direct, and shall be attached to, and considered as part of the militia of the city and county of New-York, and be subject to the immediate command of the senior brigadier of the said city and county, as part of his brigade.

XII. *And be it further enacted by the authority aforesaid,* That if a sufficient number of volunteers shall not offer themselves to compose the infantry companies of any regiment, it shall and may be lawful, from time to time, when a deficiency in the compliment of any such company shall arise, to and for the field officers of the regiment to cause a list to be made, of all the young men enrolled in the district of such regiment, above the age of sixteen, and under the age of twenty-six years, and who shall not already have enlisted in the said infantry companies, and shall, by lot, determine which of

the said young men shall be compelled to attach themselves to the said companies of Infantry.

XIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any major-general, or commanding officer of a brigade, or commanding officer of a regiment, when, and as often as any invasion may happen, to order out the militia under their respective commands, for the defence of this state, giving notice of such invasion and every circumstance attending the same, as early as possible, to their immediate commanding officer, by whom such information shall be transmitted, with the utmost expedition, to the commander in chief. And that in cases of insurrections, the commanding officer of the regiment within the limits of

Mode of ordering out the militia in times of invasion.

which any such insurrection may happen, shall immediately assemble his regiment under arms, and having transmitted information thereof to the commanding officer of the brigade, and to the commander in chief, shall proceed to take such measures to suppress such insurrection, as to any three of the judges or justices of the county in which such insurrection shall happen, shall appear most proper and effectual. And if any person be wounded or disabled while in actual service, in opposing any invasion or insurrection, or in suppressing the same, he shall be taken care of, and provided for at the public expence, without having any regard to the rank such person may hold.

Persons disabled in opposing any invasion or insurrection, to be provided for at the public expence.

XIV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the person administering the government of the state for the time being, by and with the advice and consent of the council of appointment, to appoint a commissary of military stores, who shall be allowed at and after the rate of forty pounds per annum; and such commissary shall have the charge and keeping of ordinance and military stores of the state, subject to such orders and instructions in the execution of his duty, as he shall receive from the commander in chief.

XV. And be it further enacted by the authority aforesaid, That every non-commissioned officer and private, who shall neglect or refuse to obey the orders of his superior officer while under arms, shall forfeit twenty shillings for every such offence; and if any such non-commissioned officer or private enrolled to serve in either of the companies of artillery, cavalry or infantry, shall refuse or neglect to perform such military duty or exercise as he shall be required to perform, or shall depart from his colours or guard without the permission of his superior officer as aforesaid, he shall forfeit the sum of twenty shillings; and for the non-payment thereof, the offender shall be committed, by warrant from the captain or commanding officer of the troop or company then present, to which such offender doth belong, to the next gaol, there to be confined until the fines as aforesaid, together with the gaoler's fees, are paid; and the respective sheriffs of the respective cities and counties of the state, are hereby empowered and required to receive the body or bodies of such offender or offenders, as shall be brought to them by virtue of a warrant or warrants under the hand and seal of such officer as aforesaid, and him or them to keep in safe custody, until such fines as are mentioned in such warrant, together with the gaoler's fees as aforesaid, shall be paid; and the sheriffs and gaolers respectively shall be allowed the same fees as are allowed in other cases. Provided, That in case of a military guard, where a captain doth not command in person, a warrant granted by an inferior officer, who

Penalty on non-commissioned officers and privates for neglecting or refusing to obey orders.

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shall have the command of such guard, shall be of the same authority against all offenders, as if such warrant had been issued by such captain.

XVI. *And be it further enacted by the authority aforesaid,* That the military uniform of this state shall be as follows; That is to say,

General officers; Dark blue coats with buff facings, linings, collars and cuffs, and yellow buttons, with buff under-clothes.

Regimental officers of infantry; Dark blue coats with white linings, facings, collars and cuffs, and white buttons, with white under-clothes.

Non-commissioned officers and privates of infantry; Dark blue coats with white linings, collars and cuffs, and white under-clothes.

Staff officers; Dark blue coats with buff collars and linings, and yellow buttons.

Provided, That none of the non-commissioned officers and privates of the regiments of militia, except those composing the light-infantry companies directed to be formed by this act, shall be obliged to appear in uniform, in manner aforesaid.

XVII. *And be it further enacted by the authority aforesaid,* That all persons who have heretofore been commissioned officers in the line of the army of the United States, shall be, and hereby are exempted from serving in the militia of this state; any thing in this act to the contrary hereof notwithstanding. Provided nevertheless, That if any such officer, being above the age of sixteen, and not more than forty-five years, shall be commissioned in the militia to a rank equal to that which he held in the said army, and shall refuse to accept such commission, such officer so refusing, shall be liable to serve in the militia.

XVIII. *And be it further enacted by the authority aforesaid,* That the commander in chief shall, as soon as may be after the passing of this act, take such measures as to him shall seem proper, to obtain the age, rank and residence of all officers who heretofore have served in the militia of this state, and the number of men between the age of sixteen and forty-five, directed to be enrolled by this act; and all executive officers within this state are hereby strictly enjoined and required to carry into execution such directions relative to the premises, as the commander in chief may, from time to time, give and enjoin.

XIX. *And it be further enacted by the authority aforesaid,* That all other laws of this state for regulating the militia thereof, shall be, and hereby are repealed. Provided always, That the act, entitled, An act to regulate the militia, passed the 4th of April, 1782, shall continue to be in full force and effect in the different counties of this state, until the militia of such counties shall be arranged and officered agreeable to the directions of this law, and no longer.

C H A P. XXVII.

An ACT for the Relief of Creditors against Heirs, Devisees, Executors and Administrators, and for proving Wills respecting real Estates.
Passed 4th April, 1786.

I. **B**E it enacted by the people of the state of New-York, represented in senate and assembly, and it is hereby enacted by the authority of the same, That

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being found in the possession of the person complying with this act, the party so claiming any such property in dispute as aforesaid, shall not be allowed to take the same out of the hands of the person found in possession, without such claimant can prove, by disinterested testimony, such property so in dispute, and that the same is his property, such proof when the value of the property is under five pounds, to be made before any justice of the peace in the county where such property may be found, and if above that value, before any court having jurisdiction thereof.

Where there is likeness, the oldest record to be evidence of right.

2. *And be it further enacted by the authority aforesaid,* That where two or more persons shall have the same marks and brands, each of them recorded; in such case the oldest record shall be evidence of right, so far as to compel the other party to prove his property by disinterested testimony, in the manner herein before pointed out: *Provided,* That nothing in this act contained shall compel such person or persons as have already had their brands and marks recorded in the secretary's office, to record the same in the clerk's office aforesaid, but such record in the secretary's office shall be good and valid.

Clerk's fees for recording.

3. *And be it enacted,* That it shall be the duty of the clerks of the superior courts, upon the application of any person or persons, to record all marks and brands, in books to be kept by them for that purpose, and give certificates thereof when thereunto required by any person or persons, and for which they shall receive the fees pointed out by the act to revise and amend: "An act for ascertaining the fees of the public officers of this state."

WILLIAM GIBBONS, *Speaker of the House of Representatives,*

BENJAMIN TALIAFERRO, *President of the Senate,*

EDWARD TELFAIR, *Governor.*

December 1792.

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MILITIA.

An act to revise and amend the militia law of this state, and to adapt the same to the act of the congress of the United States, passed the eighth day of May, one thousand seven hundred and ninety-two, entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States."

Militia to be laid off into divisions, &c.

1. **BE IT ENACTED** by the Senate and House of Representatives of the State of Georgia, in General Assembly met, That in order to comply as nearly as may be convenient with the act of the congress of the United States, passed at Philadelphia on the eighth day of May, in the year of our Lord one thousand seven hundred and ninety-two, entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," the militia of this state shall be laid off and apportioned into divisions, brigades, regiments, battalions and companies, in the manner herein after particularly expressed.

Brigades and divisions defined.

2. *And be it further enacted,* That the counties of Camden, Glynn, Liberty and Chatham, shall compose a brigade, to be known as the first brigade of the first division, and the counties of Effingham and Burke as the second brigade of the said division; and the said two several brigades shall compose the first division of the militia of this state; and the counties of Richmond and Columbia shall compose a brigade,

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to be known as the first brigade of the second division, and the counties of Washington and Greene as the second brigade of the said division; and the said two several brigades shall compose the second division of the said militia; and the county of Wilkes shall compose a brigade, to be known as the first brigade of the third division, and the counties of Franklin and Elbert as the second brigade of the third division; and the said two several brigades shall compose the third division of the said militia.

3. *And be it further enacted*, That each division of the said militia shall be under the direction of, and be commanded by a major general; and each brigade shall be under the direction of, and be commanded by a brigadier general; and there likewise shall be appointed an adjutant general, to have the rank of lieutenant colonel. All which said officers shall be appointed and commissioned by the commander in chief of this state, under the regulations and restrictions herein after pointed out.

A division to be commanded by a major general; a brigade, by a brigadier general. Adjutant general, rank of lieutenant colonel.

4. *And be it further enacted*, That in two months after the passing of this act, the said several brigades shall be subdivided into regiments, battalions, and companies, as near as may be, in conformity to the aforementioned act of the congress of the United States, by the executive department of this state. *Provided*, That the respective counties be kept distinct from, and unblended with any other county in such subdivision, unless alterations in such counties should hereafter by law take place.

Brigades, subdivided into regiments, battalions and companies. Proviso.

5. *And be it further enacted*, That the officers of companies shall be nominated by election of the citizens liable to bear arms in each company district, and be appointed agreeably to the constitution, by the governor of this state, under the following rules and restrictions, that is to say, the free white inhabitants so liable to do militia duty shall, within ten days after such company district shall have been defined by the executive, assemble at a place to be appointed therein, by any two or more magistrates within such company district, or if there should not be two residing magistrates within such district, by any two or more magistrates of the county such company may be in, ten days' public notice being first given by such magistrates of such meeting and the intention thereof, and the free white inhabitants liable to do duty therein, and so convened, shall proceed to nominate by ballot, one fit and proper person to fill each respective commission of captain, lieutenant and ensign for such company; the election so held and the persons so nominated for each commission as aforesaid, shall be certified* under the hands and seals of the said magistrates, and be by them sent, within fifteen days, so certified, to his excellency the governor, who shall within five days after the receipt thereof, appoint and commission the persons so nominated for the respective commissions of captain, lieutenant and ensign, as the case may be; and in case of the neglect or refusal of the inhabitants of any company district to meet, and by ballot to nominate the persons aforesaid, within the time herein before pointed out for such meeting, the executive department shall proceed to appoint the officers of such company district, without any such nomination.

Company officers how appointed.

6. *And be it further enacted*, That the captains and subalterns of companies so nominated and appointed shall, within twenty days after the notification of their appointments, by his excellency the governor has taken place, meet and assemble at some convenient place within the battalion or regimental district, as the case may be, to which such officers belong, under the direction of any two or more of the captains so appointed, not being candidates, ten days' notice being given of the meeting, and its intention, by them, and when so met the said officers shall proceed to nominate by

Field-officers, appointed by the company officers.

* See act of 1793, sect. 8.

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Provided, That ballot one fit and proper person for each commission of lieutenant colonel of the regiment, or major commandant of the battalion as the case may be: *Provided*, That where the lieutenant colonel, when appointed, will command a regiment consisting of two battalions, the officers of companies of both battalions shall assemble together in like manner at a convenient place for each battalion, under the direction of two or more captains, one of which at least belonging to each respective battalion; and the captains so assembling the said officers shall, within ten days after such nomination certify the same, and the names of the persons so nominated, and send such certificate to the executive department, which shall within five days thereafter, appoint and commission the persons so nominated to fill such appointments of lieutenant colonel or major, as the case may be.

Counties not containing two battalions, how to be regulated. 7. *And be it also enacted*, That where a county will not permit its being formed into two battalions, the same shall compose a regiment, to be commanded by a lieutenant colonel commandant.*

Officers, how to take rank. 8. *And be it further enacted*, That where any officer now in commission shall be nominated and appointed to fill the same commission he before held, he shall take rank from the date of the commission he so before held, any thing herein contained to the contrary notwithstanding; and the officers in commission at the time of passing this act, shall continue to act until the nomination or appointment of some other person to fill the same.

Persons liable to do duty, to be enrolled. 9. *And be it enacted*, That the commanding officer of each company of militia, shall enrol the names of all the male inhabitants (slaves excepted) above the age of eighteen, and under the age of forty-five years, who shall have resided therein for the space of ten days, and shall cause the persons so enrolled to be summoned and duly notified, by a proper non-commissioned officer, to appear at such times and places as he shall appoint, for company musters; and the persons so enrolled shall be from thenceforth deemed and held to belong to such company, and liable to appear at all its musters, whether battalion or company, and on all other necessary occasions, and to perform the whole duty of a militia-man, without any further notice whatsoever.

Accoutrements. 10. *And be it further enacted*, That every person so enrolled shall provide himself, agreeably to the act of congress, with a musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein, to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred and provided when called out to exercise, or into service; except that when called out to exercise only on company days, he may appear without a knapsack. And if any person so enrolled shall neglect to provide himself, or shall appear at muster not properly accoutred, as before expressed, or shall neglect or refuse to appear at such battalion or company musters, or on any other necessary occasion, at any time within nine months after the passing of this act, shall be fined in a sum not exceeding two dollars for every such offence; and for every such neglect after that time, in a sum not exceeding six dollars, if a battalion muster, and four dollars if a company muster.

Fines of privates, for not attending well accoutred. 11. *And be it further enacted*, That every commissioned officer of the rank of captain and under, shall provide himself with a sword or hanger, an esponton, and a com-

Field and company officers, uniform.

* By a major, if not more than four companies. See act of 1795, sect. 5.

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plete suit of uniform, to be determined on by the officer commanding the brigade he belongs to; and in case of any such officer appearing at musters, or on other necessary occasions, not so provided, at any time within nine months after his appointment, every such officer so offending, or who shall neglect or refuse to appear at such musters, shall be fined, if a captain, in a sum not exceeding thirty dollars, if a lieutenant, not exceeding twenty dollars, and if an ensign, not exceeding fifteen dollars. And every general and field-officer shall in like manner appear, when on duty, in complete uniform, and armed with a sword or hanger; the uniform of the general officers to be determined by the commander in chief, and the uniform of the field-officers by the officer commanding the brigade; and in case of their appearing at muster, or on other necessary occasions, not so provided, every such officer shall forfeit and pay, if a major general, a sum not exceeding two hundred and fifty dollars, if a brigadier, a sum not exceeding two hundred dollars, and if a field-officer, a sum not exceeding one hundred dollars.

Fines for neglect and non-attendance.

12. *And be it further enacted*, That the said militia shall exercise in battalion twice in each year, and in companies four times in every year; and in case of neglect thereof, if a battalion or regimental muster, the commanding officer of such regiment or battalion, shall be fined in a sum not exceeding one hundred dollars, to be imposed by a court-martial, to be ordered by the officer commanding the brigade; and if a company muster, the officer commanding and so neglecting, shall be fined for every such neglect in a sum not exceeding thirty dollars, to be imposed by a court-martial, to be ordered by the officer commanding the regiment or battalion, to which such company shall belong; and due notice shall be given of such regimental, battalion or company musters, by the officers commanding the same.

Battalion and regimental musters.

Fines for neglect.

13. *And be it further enacted*, That every officer commanding a company shall, on the days appointed to exercise his men by company, have the same formed under arms by eleven of the clock in the forenoon, by which hour every person liable to militia duty in such company shall attend, and the said officer shall then have his roll called over, and mark all defaulters, and shall proceed to instruct and exercise his men in the evolutions and manual exercise, pointed out and required by the before mentioned act of congress; and in case of neglect of such instructing and exercising, the officer so commanding shall be liable to a penalty not exceeding thirty dollars for every such neglect.

Company musters.

Fines for neglect.

14. *And be it further enacted*, That if any person liable to bear arms, at any exercise or training hereby appointed, shall behave in a contemptuous or unsoldier-like manner, at either battalion or company musters, whilst under arms, or shall insult or threaten his field-company, or other officer commanding, after his discharge, for or on account of such officer's performing the duty hereby required of him whilst such person was under arms, every such person shall, for every such offence, forfeit and pay a sum not exceeding four dollars; and if such offender shall be a commissioned officer, and shall be guilty of contemptuous or unsoldier-like behaviour, whilst on duty, or shall, after his discharge from such duty, threaten or insult his superior officer, for or on account of the duty required of such officer by this act, every such commissioned officer so offending shall, for every such offence, forfeit and pay a sum not exceeding twenty dollars, or be cashiered, at the option of a court-martial.

Privates to be fined, and officers fined or cashiered at the option of a court-martial.

15. *And be it further enacted*, That any person interrupting the military exercises required by this act, may be committed by the officer commanding the body of militia so interrupted, to the nearest common jail for a space of time not exceeding five days, for every such offence.

Persons interrupting the exercises, to be imprisoned

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Servants to be
equipped by
their masters,
fines for ne-
glect.

16. *And be it further enacted*, That every master or other person, who hath the command, government, or power over any indented man servant, liable to do militia duty by this act, shall, at his, or her own proper cost and charge, furnish and provide every such indented man servant during his service, with the arms, ammunitions and accoutrements directed by this act, and every such master or other person shall send such indented servant completely armed and furnished as is herein required, to all battalion, regimental or company musters, and on all other necessary occasions, which such indented servant would have been liable to attend were he not a bondman; and in case such indented servant shall not appear thereat, or on appearance shall be defective in arms or accoutrements hereby required, such master or other person shall be liable to all the fines, penalties, and forfeitures, imposed in like cases on other persons liable to bear arms by this act.

Fines, &c. to be
imposed by a
court-martial

17. *And be it further enacted*, That the several fines, penalties and forfeitures to be inflicted by this act, on persons liable to attend at company musters, may be imposed by a court consisting of a majority of the commissioned officers of such company; or in case of vacancies of two commissioned officers of the regiment, or battalion such companies belong to, *Provided*, one of the said officers be an officer of such company. And the several fines, penalties, and forfeitures to be inflicted on persons liable to attend battalion or regimental musters, shall be imposed by a court to consist of at least seven commissioned officers of such battalion or regiment; and it is hereby made the duty of the officers appointed members of such courts martial, on being duly notified thereof to attend the same. And in case of neglect or refusal of any such commissioned officer to attend, he shall be liable to the penalties herein pointed out, for non appearance at regimental or battalion musters, and ten days' notice at least in writing shall be given defaulters and offenders, to be tried at such company, battalion, or regimental courts martial, under the hand of the commanding officer of the company, such offender, or defaulter belongs to, who shall be served with the same personally, or be otherwise notified by a non-commissioned officer thereof, by such non-commissioned officer's leaving the same at such defaulter's, or offender's usual place of abode, and proof of such service shall be made to such court, on oath previous to its proceeding to the trial of such offender or defaulter.

Warrants for
collecting fines,
how drawn and
served.

18. *And be it further enacted*, That all warrants for fines, penalties or forfeitures, inflicted by this act, shall, if in consequence of the sentence of a company court-martial, be under the hand and seal of the commanding officer of the company; and if in consequence of the sentence of a regimental or battalion court-martial, under the hand and seal of the commanding officer of such regiment or battalion; and every such warrant shall clearly express the offence, and recite the sentence of the court, and shall be directed to and executed by a serjeant of the company the offender belongs to, or be directed to and executed by any lawful constable of such district; and such non-commissioned officer or constable shall make return of such warrant, within thirty days after his receiving the same; and if on such return it shall happen that such offender or defaulter has not wherewithal to be levied to satisfy the forfeiture or fine imposed by such court, it shall be the duty of such officer commanding, to renew the warrant, and thereby to commit the offender or defaulter to the common jail of the county, or the nearest jail thereto if there shall be no such county jail, for the space of one day for each dollar contained in such fine or forfeiture; and it is hereby made the duty of the keeper of such jail, to receive such offender or defaulter, and to keep him in close custody for the term in such warrant expressed, without bail or mainprize, and until such offender or defaulter shall have satisfied such keeper for

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his fees on such confinement: *Provided*, That no jailor shall detain such person or persons more than three days for his fees: *And provided*, That where this act admits of persons being committed to jail in the first instance, no return or renewal of such warrant shall be necessary. Proviso.
Proviso.

19. *And be it further enacted*, That the non-commissioned officers of the respective companies shall be appointed in the following manner, that is to say, the names of all persons liable to bear arms in each company district, shall be placed in a box, to be kept in the custody of the commanding officer of such company, and to have two partitions, to be known by the Nos. 1 and 2; and the names in the first instance shall be put in the partition No. 1; and within one month after the respective companies are organized, it shall be the duty of the commissioned officers thereof to assemble, and draw from the said partition No. 1, the names of eight persons, which shall be thrown into the partition No. 2; and the eight persons so drawn shall be the non-commissioned officers of the company, and are hereby declared liable to execute and perform all the duties of such station, and they shall serve as such for the space of twelve months, and shall not be liable to serve again in that capacity, until all the names shall be drawn from the partition No. 1: And in case of refusal to act in such appointment, or to procure some fit and proper person, to be approved of by the officer commanding the company, to do the duty of a non-commissioned officer in his stead, such person so drawn and refusing to act, or to procure such fit and proper person, shall forfeit and pay the sum of ten dollars, to be recovered by warrant of the officer commanding the company such person shall belong to; and the said commissioned officers shall proceed to draw another person to fill the office of such person so refusing, until the number of non-commissioned officers shall be completed; and the first four persons so drawn as afore said, shall be the serjeants, and the last four so drawn, the corporals of such company: *Provided nevertheless*, That if fit and proper persons for non-commissioned officers should be procured by the commissioned officers of such company, the mode of drawing in this clause contained may be dispensed with; but after such fit and proper persons have accepted such offices, they shall be liable to serve in such station at least for the term of twelve months, as is herein before expressed for persons drawn to serve in the same; and in consideration of the duties in this act assigned to them, one half of the fines of such company shall be set apart as a fund for defraying the expence of executing such duty, and be divided among such non-commissioned officers; but if any non-commissioned officer, after excepting such office, shall neglect or refuse to do the duty required by this act, he shall for every such offence forfeit and pay a sum not exceeding five dollars. Non-commissioned officers to be drawn by lots
Fine for refusing to act.
Proviso.
Fine for neglecting to act.

20. *And be it further enacted*, That it shall be the particular duty of the officers commanding companies, to pay a due attention that the law for establishing and regulating patrols in force in this state, passed the eighteenth day of November, in the year of our Lord one thousand seven hundred and sixty-five, under the then province of Georgia, be strictly executed; and in case of neglect or default of such execution, every officer commanding the company defaulting, and not punishing the defaulters agreeable to the said act, shall be liable to a fine not exceeding fifty dollars, or be cashiered at the option of a court-martial. Patrol law, how to be enforced.

21. *And be it further enacted*, That the officers commanding regiments or battalions, shall once in every year make proper and complete returns of their regiment or battalion as the case may be, to the officer commanding the brigade to which they respectively belong, and the officers commanding brigades, shall in like manner make Returns which to and by whom to be made.

Y y

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proper and complete returns of their brigades to the officers commanding the division to which they respectively belong; and the officers commanding divisions, shall receive and distribute all such orders to the brigades of their respective divisions, as may from time to time be issued from the commander in chief, or by his direction from the adjutant general, and the officers commanding brigades, shall in like manner receive and distribute to, and among the respective regiments and battalions of their respective brigades, all such orders as may from time to time be issued to them by the officers commanding divisions; by the commander in chief, or from his directions by the adjutant general, and the officers commanding regiments or battalions shall cause to be distributed to, and executed by the respective companies under their command, all such orders as they may from time to time receive from officers commanding divisions and brigades, or from the commander in chief, or the adjutant general; and in case of neglect or refusal to perform such duty, every officer so offending, shall if a major general, be fined in a sum not exceeding five hundred dollars, if a brigadier, in a sum not exceeding three hundred dollars, and if a field officer in a sum not exceeding two hundred dollars, or be cashiered at the option of a court-martial, to be ordered, if on a major general, by the commander in chief, if on a brigadier, by the officer commanding the division, and if on a field officer, by the officer commanding the brigade: *Provided*, That nothing in this clause contained shall be construed to debar the commander in chief from arresting and ordering courts martial for the trial of any officer of the militia of this state, or to debar any officer commanding a division, brigade, regiment, or battalion, from arresting and ordering courts martial for the trial of any officer belonging to his division, brigade, regiment or battalion.

22. *And be it further enacted*, That a court-martial* for the trial of a major general, shall consist of at least one major general, three brigadier generals, and five field-officers; and for the trial of a brigadier general, the court shall consist of at least two brigadier generals and seven field-officers; and for the trial of a field-officer, it shall consist of at least one brigadier, three field-officers, and five captains, or of four field-officers and of five captains; and a court-martial for the trial of a captain or subaltern, shall consist of at least seven commissioned officers, the president thereof to be of superior rank to the officer tried; and every sentence of a court-martial, where the officer shall be cashiered, shall be transmitted by the president of the court, through the adjutant general, to the commander in chief, who may approve of, mitigate the sentence, or pardon the offender as he may see fit; and in case of sentences merely pecuniary, the officer ordering the court may approve, disapprove or mitigate the same.

23. *And be it further enacted*, That from and after the organization of the militia as before pointed out, whenever any vacancy shall happen in any captain's district, battalion, regiment, brigade or division, by death, resignation, or otherwise, the vacancies shall be filled up by nominating a person or persons to fill such vacancy or vacancies, in the same manner as before pointed out.

24. *And be it further enacted*, That his excellency the governor be, and he is hereby empowered to assemble and embody such part of the militia of the state as he may from time to time think necessary, to repel any invasion, insurrection, or rebellion which may happen within the same, and to order such officers to command the said militia as he may see fit; *Provided*, That the officers of one company shall not be placed to command another company, unless where the death, resignation, or inability of such officer shall make it necessary. *And provided*, That nothing in this

* See act of 1793, sect. 3.

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clause contained shall prevent part of such company from being detached on piquet or otherwise under any officer.

25. *And be it further enacted*, That where volunteer corps of artillery, horse, or infantry shall be formed in pursuance of the afore mentioned act of congress, the volunteers composing the same, shall not be permitted to leave such corps until he or they shall have given two weeks' notice of such intention, and shall have produced a certificate from under the hand of the commanding officer of the company district he belongs to, that his name is enrolled therein; and until the expiration of such notice, such person shall be liable to continue to do duty in such volunteer corps: And in case of removal of residence of any person, liable to do militia duty, from one district to another, five days' notice shall be given to the officer of the company such person intends to remove from, and shall produce a certificate from the officer of the company he intends to remove to, that his name is therein enrolled, and until such notice and certificate, such person shall be liable to do militia duty, in such company from which he intends to remove.

Corps of artillery, horse and infantry, how to be governed.

26. *And be it further enacted*, That any officer acting in a scandalous or infamous manner, unbecoming the officer, and which is likely to bring the militia service into disrepute, may be arrested by order of the commander in chief, or the commanding officer of division or brigade, on sufficient grounds appearing to them of such conduct, and on conviction thereof by a court-martial, such officer may be cashiered: And all disorders and neglects whilst on duty, or under orders, which officers or privates may be guilty of to the prejudice of good order and discipline, though not herein particularly provided for, may be noticed by a general, regimental or battalion court-martial, and be punished by fine or forfeiture, not exceeding the penalties herein apportioned for other offences, according to the rank of the offender.

Improper conduct, neglect, &c. of officers, cognizable by courts martial.

27. *And be it further enacted*, That all fines* and forfeitures accruing by virtue of this act shall, if arising from default at regimental or battalion musters, be paid into the hands of the major of such regiment or battalion, for the express purpose of procuring regimental and company colors; and all fines and forfeitures arising from defaults at company musters (except as herein excepted) shall be lodged in the hands of the captain thereof, to be applied in the purchase of drums and fises; and such captain, after such purpose is attained, shall yearly account with and pay to the major of such regiment or battalion, the overplus of such fines and forfeitures, who shall, after the expence of colors is deducted therefrom, pay the overplus of such regimental, battalion or company forfeitures, into the public treasury, where all fines on general officers shall also be paid.

Fines and forfeitures appropriated.

28. *And be it further enacted*, That the commanding officer of regiments shall have the sole appointment of the regimental staff, as pointed out by the afore said act of congress; and that for the better understanding of this law, as it has reference to the said act, the executive be empowered to direct a sufficient number of copies of that act to be struck off with this law, to be distributed, one to each company of militia within this state, and one to each field and general officer within the same: And it is declared to be the duty of each company officer to have the said act, together with this law, publicly read over at least twice in each year to his company, whilst under arms; and it shall be the duty of the field-officers to have the same once in every year read to the respective regiments or battalions; whilst under arms, to which they may respectively belong. And the executive department is also farther empowered and re-

Officers commanding regiments, shall appoint the regimental staff. Act of congress to be published by the executive.

Militia laws to be read to companies, battalions and regiments.

* See act of 1793, sect. 2.

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quired, to have a like number of copies of the rules and articles of war, in force with the troops of the United States, to be distributed in like manner, that the militia be not ignorant thereof when called into actual service.

General officers,
how appointed.

29. *And be it further enacted*, That the major generals, brigadier generals, and adjutant general, created by this act, shall be nominated in the following manner : The Senate and House of Representatives shall concur in the nomination of one person as major general for the first division ; one other person as major general for the second division ; and one other person for the major general of the third division of the militia of this state ; and shall also concur in the nomination of one other person for the brigadier general of the first brigade of the first division ; one other person for the brigadier general of the second brigade of the said division ; one other person for the brigadier general of the first brigade of the second division ; one other person for the brigadier general of the second brigade of the said last mentioned division ; one other person for the brigadier general of the first brigade of the third division ; and one other person for the brigadier general of the third and last division ; and also concur in the nomination of one other fit and proper person as adjutant general ; and a list of the names of the persons as shall be nominated as aforesaid, shall be signed by the president of the Senate and speaker of the House of Representatives, and transmitted to the governor within two days after such nomination, for the purpose of appointing and commissioning each and every of such nominated persons, within ten days after he shall receive such lists of names as aforesaid.

Vacancies by
removal.

30. *And be it further enacted*, That in case any officer shall remove out of the district, battalion or regiment for which he shall be appointed, then and in that case his commission shall be void ; and all officers of divisions, brigades, regiments, battalions, and companies, shall be residents of the divisions, brigades, regiments, battalions and companies to which they severally belong.

Quakers ex-
empt from du-
ty on payment
of additional
tax.

Proviso.

31. *And be it further enacted*, That the people called quakers, on producing a certificate from a quaker meeting of their being *bona fide* quakers, shall be exempt from all militia duty required by this act, and shall pay an extra tax of twenty-five per centum in addition to their general tax. *Provided*, That this act shall not extend to affect persons nor their estates, who are herein exempt either from years, appointments, or imbecility.

Exemptions in
addition to
those in the act
of the United
States.

32. *And be it further enacted*,* That the members of the legislature for the time being, and their officers, all judicial and executive officers, all ministers in orders, practitioners of physic, all public printers, all ferrymen, millers, all tutors and students, all justices of the peace, registers of probates, the treasurer, the surveyor general and county surveyors, the secretary of state, invalids, post-riders, madmen and idiots,† shall be and they are hereby exempted from any of the duties required by this act, in addition to those exempted therefrom by the act of the United States.

WILLIAM GIBBONS, *Speaker of the House of Representatives*,
BENJAMIN TALIAFERRO, *President of the Senate*.

Concurred December 24, 1792.

EDWARD TELFAIR, *Governor*.

* See act of 1793. sect. 15.

† Further exemptions.—See acts 1794, sect. 3. and 4. And 1795. sect. 7.

New Hampshire

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That the companies in the towns of Lancaster, Dalton, Jefferson and Northumberland, shall constitute a first battalion—That the companies in the towns of Piercy, Stratford, Wales' Gore, Cockburn, Colebrook and Stewartstown, shall form a second battalion, which shall constitute the twenty-fourth regiment—That the companies in the towns of Bath, Lyman and Landaff shall form a first battalion, and that the companies in the towns of Concord in the county of Grafton, Littleton, Bethlehem, Lincoln and Franconia, shall form a second battalion, which shall constitute the thirty-second regiment.

And be it further enacted, That there be allowed one company of light infantry and one company of cavalry to be raised out of the thirty second regiment, and that the same be raised in manner and form as the law in that case provides.

And be it further enacted, That the inhabitants of the towns of Whitfields, Britton woods, Kilkenney Durand and Nash and Sawyers location, shall be considered as belonging to the first battalion, and Errol to the second battalion of said twenty-fourth regiment.

Approved December 13, 1804.

AN ACT for forming and regulating the militia within this State, and for repealing all the laws heretofore made for that purpose. Passed Dec. 28, 1792.

BE it enacted by the Senate and House of Representatives in General Court convened, That the several laws heretofore made for regulating the militia, be, and hereby are repealed. Repealing clause.

And be it further enacted, That each and every free able-bodied white male citizen of this State, resident therein, who is, or shall be of the age of eighteen years, and under the age of forty-years, except as herein after excepted, shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, within six months after the passing this act. And it shall, at all times hereafter, be the duty of such captain or commanding officer of the company to enrol every such citizen, as aforesaid; and also those who shall from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty years (except as hereafter excepted) shall come to reside within his bounds; and shall without delay, notify such citizen of said enrolment by a proper non-commissioned officer of the company, by whom such notice may be proved. Militia how and by whom to be enrolled.

And be it further enacted, That the vice-president of the United States; the officers, judicial and executive of the Executive officers, &c. exempted.

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government of the United States ; the members of both houses of Congress, and their respective officers ; all custom house officers, with their clerks ; all post officers, and stage drivers, who are employed in the care and conveyance of the mail of the post office of the United States, and of this State ; all ferry-men employed at any ferry on the post road ; all inspectors of exports ; all pilots ; all mariners actually employed in the sea-service of any citizen or merchant within the United States ; members of the senate and house of representatives for the time being ; secretary and deputy-secretary of the State ; state and county treasurers ; recorders of deeds ; all civil officers, students of colleges and academies ; ministers of the gospel ; elders and deacons of churches ; church wardens ; grammar school-masters for the time being ; masters of arts ; people denominated quakers, selectmen for the time being ; tutors or preceptors of any college or academy ; all persons who may have sustained commissions of the peace ; all who have, either under the commission of the State, or the United States, or any particular State, held the office of a subaltern or officer of higher rank ; all physicians and surgeons, who have certificates from the medical society or selectmen of the town or place wherein they reside ; one miller to each corn-mill, and one toll-gather to each toll-bridge, shall be, and they are hereby excused from militia duty, and also one ferryman to each ferry.

Each company exclusively, to be mustered twice, and each battalion once a year,

And be it further enacted, That it shall be the duty of the captain or commanding officer of each company, twice in every year, exclusively of the battalion meeting, to call forth his company for inspection of arms, and instruction in military discipline, viz.—in the months of June and September, annually, and at such other times as he shall think best ; and that each commanding officer of a battalion, shall call his battalion together once in every year.

Each division, brigade and regiment by whom commanded.

And be it further enacted, That each division within this State, shall be commanded by one major-general, who shall have two aids-de-camp, with the rank of major ; each brigade by one brigadier-general, who shall have one brigade-inspector, who is also to perform the duty of brigade-major, with the rank of major. To each regiment, one lieutenant colonel commandant ; and to each battalion one major ; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer. That the regimental staff shall consist of one adjutant, one quarter-master, to rank as lieutenants ; one paymaster ; one surgeon ; one surgeon's mate ; one sergeant-major ; one drum-major and one fife-major.

And be it further enacted, That there shall be provided at

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the expense of this State for each regiment, one standard and one suit of regimental colours—the standard to bear the device, “the arms of the United States;” the regimental colours, “the arms of this State;” that the drums and fifes be furnished by the commanding officers of the companies, at the expense of the State.

What colours and at whose expense to be furnished.

And be it further enacted, That the several commanding officers of companies, shall cause accurate returns to be made of their companies to the commanding officer of the regiment to which they belong, before the first day of February annually; and the commanding officer of each regiment, shall cause to be made to the brigade-major, a proper return of his regiment, before the first day of March annually; and the respective brigade-majors, shall make out to the adjutant general, returns of their respective brigades, before the first day of April annually, agreeable to the forms that may be established by the adjutant general, which the adjutant general shall cause attested copies of, to be lodged in the secretary’s office, by the first day of May annually.

By whom returns are to be made.

And be it further enacted, That each commanding officer of a company, who shall neglect to call his company together, as before provided, shall forfeit and pay for each neglect the sum of six pounds; and each commanding officer of a battalion who shall neglect to call his battalion, as before directed, shall pay a fine of nine pounds.

Penalty for not calling companies or battalions together.

And be it further enacted, That it shall be accounted sufficient notice to any non-commissioned officer or privates, for appearance on muster days, to be notified of such muster by a non-commissioned officer in person, or by a writing by him signed, to be left at his last, and usual place of abode, four days prior to such day of muster; and if any non-commissioned officer or private, after such notification, shall unnecessarily neglect to appear equipped, as the law directs, he shall pay a fine of nine shillings; which shall be levied by distress, and sale of the offenders goods and chattels, by warrant under the hand and seal of the captain, or commanding officer of said company, to be directed to the first sergeant of the company, who is to levy the same, by the same rules and regulations, as the laws have pointed out for collecting rates and taxes, and shall have one quarter part thereof for his trouble, and the same fees that are allowed to collectors, on distraining for taxes—and if no goods and chattels of the delinquent are to be found, then to levy the same on the body of such delinquent: *Provided nevertheless,* That no such warrant shall be issued until fifteen days after said muster days, that the delinquent may have time to make excuse (if any he has) for his non-appearance, which is to be made to the commanding officer of the company.

Notice.

Disobedience
punished.

And be it further enacted, That if any non-commissioned officer or soldier, shall prove refractory or disobedient on muster day, or shall insult or abuse his officers, or either of them, or treat them with disrespect or contempt, the commanding officer present, may order the offender to be immediately tried by five commissioned officers, if so many should be present; and if not so many present, as many as there are in the field, who are empowered to punish the offender, by ordering him to pay a fine not exceeding forty shillings, at the discretion of the officers, or ride a wooden horse.

Officers to
yield obedience

And be it further enacted, That on all muster days, every officer shall yield due obedience to his superior officer and every non-commissioned officer and soldier shall yield entire and due obedience to the commands of their superior officers. And if any officer shall, on such days (or at any other time) refuse and neglect to obey the orders he may receive from his superior officers respecting any matter relating to the government of militia, he shall be tried by a court-martial, and if convicted thereof shall be cashiered. And the superior officer may immediately put such offender in arrest, and report him and his offence to the officer commanding the brigade (if the offender is under the rank of a field officer) and the commanding officer of the brigade is hereby empowered to appoint a court-martial for such trial, and to approve the sentence; and if said offender shall by said court be cashiered, and the sentence thereof approved, the said officer shall be deemed incapable of holding any military office again in this State; and in case the offender is of the rank of a field officer, or of higher rank, his offence shall be reported to the major-general, or officer commanding the division, who is hereby empowered to appoint a court martial for the trial of such offender, to approve the sentence of said court; and if the offender be found guilty and the sentence shall be approved, he shall be disqualified as aforesaid.

Commander in
chief may ap-
point courts
martial.

The commander in chief shall at all times, have the right of appointing courts-martial, when he shall think it necessary.

Number of
members.

All courts-martial, when appointed by the commander in chief, shall consist of thirteen members, the president of which shall be of the rank of major-general.

All courts-martial, when appointed by a major general, shall consist of thirteen members, and the president shall be a lieutenant-colonel or officer of higher rank.

All courts-martial appointed by a brigadier, shall consist of thirteen members, the president of which shall at least, be of the rank of a field officer.

The members of the courts-martial are to be sworn by the

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president, and the president shall be sworn by the next Members, by highest in rank of the members composing the same, and whom to be the president of every court martial, shall have power to swear. administer the oath to every witness.

In order to the trial of offenders, the oath of the president and members, shall be in the words following, viz.

You swear, that you will well and truly try, and impartially determine the charge, against the person now to be tried, according to the rules for regulating the militia of this State. Oath.

So help you GOD.

The oath to be administered to witnesses in courts-martial, shall be in the form following, viz.

YOU swear, the evidence you shall give relative to the charge now in hearing, shall be the truth, the whole truth, and nothing but the truth. Oath of witnesses.

So help you GOD.

And be it further enacted, That all military officers shall be amenable to a court-martial for any un-officer, or un-gentleman-like conduct or behaviour while on duty, and at all other times, and to be tried, and sentence approved in the same way and manner as before provided for disobedience of orders. Officers amenable for illiberal behaviour.

And be it further enacted, That all persons called by summons from the president of any court-martial to give evidence, who shall unreasonably refuse or neglect to appear, or appearing, shall refuse to give evidence, shall be committed to the common gaol of the county where such court is sitting, there to remain three months, unless sooner discharged therefrom by the justices of the superior court : gaol. And the president of the court is to lodge the accusation against him with the prison keeper. Witnesses refusing, &c. to be committed to gaol.

And be it further enacted, That every person appointing a court-martial, shall appoint some suitable person to act as judge advocate, who shall make a fair record of the whole proceedings and deliver them to the officer appointing said court-martial, who shall cause the same, or a copy thereof, to be lodged in the secretary's office, within three months after such trial. Judge advocate to be appointed.

And be it further enacted, That out of the militia enrolled as herein directed, there shall be formed for each battalion, at least one company of grenadiers or light infantry ; and to each division there shall be at least one company of artillery and one troop of horse. There shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer. The officers to be armed with a sword or hanger, a fusée, bayonet and belt, with a cartouch box, to contain twelve cartridges ; and each private matrofs shall be furnished with the same equipments as privates in the infantry. Each Battalion to have one company of grenadiers, &c. and one company of artillery. Officers how to be armed.

Troops of
horse how of-
ficed, &c.

There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one fadler, one farrier and one trumpeter. The commissioned officers to furnish themselves with good horses of at least fourteen hands and an half high, and to be armed with a sword, and pair of pistols, the holsters of which to be covered with bearskin caps. Each dragoon to furnish himself with a serviceable horse of at least fourteen hands and an half high, a good saddle, bridle, mail-pillion and valise, holsters, a breast-plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartouch box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse, shall be formed of volunteers from the brigade, at the discretion of the commander in chief of the State, not exceeding one company of each to a regiment, and shall uniformly be clothed in regimentals, to be furnished at their own expence; the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

Artillery and
horse of whom
to be formed,
and

uniformly clad.

How to be ar-
med and ac-
countred.

And be it further enacted, That each non-commissioned officer and soldier belonging to the regiments of foot, shall within one year from and after the passing this act, furnish himself with a good fire-lock bayonet and belt, a cartouch box that will contain twenty-four cartridges, two good flints, a knapsack and canteen—and that the commissioned officers belonging to companies of foot, shall be severally armed with a sword or hanger and an esponton, and that the field officers be armed with a sword or hanger.

Those unable,
&c. to be e-
quipped at the
expence of the
town,

And be it further enacted, That such of the infantry as are under the care of parents, masters or guardians, shall be furnished by them with such arms and accoutrements. And such as are unable to furnish themselves, shall make application to the selectmen of the town, who are to certify to their captain or commanding officer, that they are unable to equip themselves, and the said selectmen shall, at the expence of the town, provide for, and furnish such persons with arms and equipments; which arms and equipments shall be the property of the town, at whose expence they were provided: And if any person so furnished, shall embezzle or wilfully destroy the same, he shall be punished by any court proper to try the same, upon complaint made by the selectmen of said town, by being publicly whipped not exceeding twenty stripes, or fined not exceeding forty shillings. And that all fines recovered for embezzling or destroying of arms and accoutrements as provided in this act, shall be paid into the hands of the selectmen to be appropriated in purchasing arms and accoutrements for such soldiers as are unable to purchase for themselves.

Fines how to
be appropri-
ated.

And be it further enacted, That parents, masters and guardians shall be liable for the neglect and non-appearance of

Militia formed and regulated.

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Such persons as are under their care (and are liable by law Parents, &c. to train) and are to be proceeded against for the penalty in liable to a penalty. the same manner, as by this act is provided against other delinquents.

And be it further enacted, That the commander in chief, the officers commanding divisions, brigades or regiments, Military watches, by whom to be appointed. may appoint military watches or guards when an invasion of the State is apprehended, in such place and under such regulations as they may judge necessary : and all officers and soldiers under their command are to yield strict obedience to their orders and directions.

And be it further enacted, That the signals for an alarm are to be fixed by the captain general, and may by him be Signals to be altered, from time to time, and proper notice thereof is to fixed be by him given to the several officers; and if any non-commissioned officer or soldier, shall upon the alarm being given, unnecessarily neglect to appear properly armed and equipped, at such time and place as the commanding officer shall appoint, he shall pay a fine of twenty shillings; and all persons serving on any military guards, or watches, shall be punishable for misconduct while in such service, by a court-martial to be appointed by the commanding officer of such guard or watch, provided he be a field officer, and in case he is not, then by the commanding officer of the regiment to which the offender belongs.

And be it further enacted, That when any non-commissioned officer shall refuse or neglect to notify or warn any Penalty for refusing to warn, &c. of the non-commissioned officers or private soldiers of the company to which he belongs (being thereto ordered by his superior officer) he shall pay a fine of twelve shillings, for each non-commissioned officer or soldier he shall neglect to warn, to be recovered in the same way and manner as is before provided.

And be it further enacted, That every fine arising by any breach of this act, for which no special mode of recovery has been pointed out, may be recovered by action, bill, Mode of recovering fines, and plaint or information, in any court proper to try the same.

And be it further enacted, That all fines recovered of any non-commissioned officer or soldier for neglect of duty, how to be appropriated. shall be paid into the hands of the commanding officer of the company, to which such non-commissioned officer or soldier may belong, to be expended in defraying the necessary expences of such company, as the commissioned officers of the same may direct. That all fines recovered of the commanding officer of any company, shall be paid into the hands of the commanding officer of the battalion, to which such commanding officer of a company may belong; to be appropriated in instructing the music in such battalion.

- That all fines recovered of the commanding officer of any battalion, shall be paid into the hands of the commanding officer of the regiment to which such battalion may belong, to be disposed of in defraying the necessary expences in forming and arranging the companies in such regiment, as the field officers of the same may direct.
- Officers, how to rank.** *And be it further enacted,* That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear equal date, then the rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.
- Rules of discipline.** *And be it further enacted,* That the rules of discipline approved and established by Congress, in their resolution of the twenty-ninth of March, one thousand, seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia in this State.
- Brigade inspector's duty.** *And be it further enacted,* That it shall be the duty of the brigade inspector, to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline before described.
- Cavalry and artillery liable to the same fines.** *And be it further enacted,* That the cavalry and artillery be subject to fine or punishment in the same manner as those who belong to the infantry.
- Courts martial of whom to consist.** *And be it further enacted,* That all courts-martial may consist of officers of any corps within the limits of the brigade where the person accused may reside.
- Legal notice, what considered as such.** *And be it further enacted,* That a captain or commanding officer at the head of his company, may direct his non-commissioned officers and soldiers to meet at any future day, which shall be legal notice.
- Non-commissioned officers liable to be reduced, &c.** *And be it further enacted,* That non commissioned officers be reduced to the ranks, for any misdemeanor, which in the opinion of all the commissioned officers of the company shall deserve such punishment.
- Commissioned officers to reside.** *And be it further enacted,* That all commissioned officers belonging to any company of infantry shall reside within the limits of such company.
- Different corps—first in rank to command.** *And be it further enacted,* That when it shall so happen, that officers of the different corps, shall be on duty together, the first officer in rank shall command, whether of the infantry, cavalry or artillery.
- Arms, &c. free from distress, &c.** *And be it further enacted,* That every citizen enrolled as directed in this act, and provided with arms and accoutrements, shall hold the same exempted from all suits, distresses, executions, or sales for debt, or for the payment of taxes.

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And be it further enacted, That the militia of this State shall be divided into three divisions, and if convenient, each division shall consist of two brigades, each brigade of four regiments, each regiment of two battalions, each battalion of five companies, and each company of sixty-four privates. Militia to be divided.

And be it further enacted, That in forming the cavalry and artillery, not more than one eleventh part shall enlist out of any one company of infantry into such corps. Cavalry and artillery of whom to be formed.

And be it further enacted, That the field officers of each and every regiment, shall form and arrange the companies in their several regiments, from time to time, as they shall think the public good may require. Field officers to arrange companies.

And be it further enacted, That there shall be an adjutant-general, whose duty it shall be to distribute all orders from the commander in chief of this State, to the several corps; to attend all public reviews, when the commander in chief of this State shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by law; to furnish blank forms of different returns that may be required, and to explain the principles on which they shall be made; to receive from the several officers of the different corps throughout the State, returns of the militia, under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline. Adjutant General, his duty.

And be it further enacted, That compensation shall be made to the adjutant-general, and the brigade inspectors for their services, from time to time, by the legislature, as they shall think just. Compensation to Adjutant and Brigade inspectors.

And be it further enacted, That the colour of the uniform of the infantry be determined on by the commander in chief. Colour of uniform, by whom determined.

And be it further enacted, That each and every non-commissioned officer or soldier, who shall enlist into any corps of horse or artillery, shall within six months from and after such enlistment, equip himself as the law directs, and at the expiration of the said six months, should he not be equipped as aforesaid, then to return to the company from which he enlisted, and the commanding officer thereof, is hereby directed to enrol him accordingly. Cavalry and artillery, if not equipped with in six months to be returned.

And be it further enacted, That the several companies, which compose the regiments of cavalry, be annexed to the regiments of infantry in manner following: Cavalry to be annexed to infantry.

To each regiment of infantry there shall be, as far as the number of companies of cavalry will admit of it, one troop of horse, or company of cavalry, with the present officers Cavalry to be under com-

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An additional act—Militia.

mand of field
officers of in-
fantry.

(if they see fit) and men of said companies, who are now uniformly clothed and equipped, or shall be within four months ; said troops of horse shall be under the command of the field officers of the regiments of infantry, and shall be joined to such regiments as shall be the most contiguous and convenient to said companies. Privilege shall be allowed to the non-commissioned officers and privates of cavalry at any time hereafter, of being enrolled as infantry, provided they decline serving as cavalry, and said companies of cavalry may be completed by enlistments, from time to time, from the infantry, as vacancies may be in said companies.

Act to be read,
&c.

And be it further enacted, That this act shall be read at the head of each company in the several regiments in this State, at least once every year.

This act passed December 28, 1792.

Passed June
19, 1793.

AN ACT in addition to an act, entitled " An act for arranging the militia into divisions ;" and in addition to an act, entitled " An act for forming and regulating the militia within this State, and for repealing all the laws heretofore made for that purpose."

Preamble.

WHEREAS in the aforesaid act " for arranging the militia into divisions," sundry towns were omitted ; and *Whereas* in the said act " for forming and regulating the militia within this State," no particular person was authorized or directed to provide standards and regimental colours for the several battalions and regiments in the same :

Therefore,

Enacting
clause.

BE it enacted by the Senate and House of Representatives in General Court convened, That the company or companies in the town of Orford, shall be considered as belonging to the first battalion in the thirteenth regiment ; and the company or companies in the town of Trecothick shall be considered as belonging to the first battalion in the fourteenth regiment ; and the company or companies in the town of Keene shall be considered as belonging to the second battalion in the twentieth regiment.

And the inhabitants on lands adjoining the towns of Franconia and Lincoln shall be considered as belonging to the first battalion in the twenty-fourth regiment.

Governor to
provide stan-
dards.

And be it further enacted, That his excellency the governor cause to be provided, at the expence of the State, one standard for each regiment, and one suit of regimental colours for each battalion.

This act passed June 19, 1793.

Delaware

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An ACT for establishing the militia in this state. (a)

Preamble.

WHEREAS a well regulated militia is the proper and natural defence of every free state : And as the several laws enacted by the Legislature of this state for the regulation of the militia thereof have been found to require material alterations ; in order to which it has been thought more advisable to revise the whole system, than to amend it by supplementary statutes ; therefore,

Who shall be
enrolled, and
by whom,

SECTION 1. *BE it enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, and it is hereby enacted by the authority of the same,* That each and every free able bodied white male citizen of this state, who is or shall be of the age of eighteen years, and under the age of forty-five years, except as herein after excepted, shall severally and respectively be enrolled in the militia, by the Captain or Commanding Officer of the company within whose bounds such citizens shall reside, such bounds to be limited and fixed agreeable to the subdivisions which have been made by the Lieutenants and Sub-lieutenants of the different counties, and that within four months after the passing of this act ; (b) and that it shall be at all times hereafter the duty of every such Captain or Commanding Officer of a company to enrol every such citizen as aforesaid, and also those who shall from time to time arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, and not excepted by this act, shall come to reside within his bounds, and shall without delay notify such citizen of the said enrolment, by a proper non-commissioned officer of the company by whom such notice may be proved ; and in all cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned

Notification of
the enrolment.

(a) See a supplement hereto, chap. 95. c. Anno, 1796.

(b) See chap. 95. c. sect. 1, provision made for dividing the counties into regimental and battalion districts, and these into company districts.

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tioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them.

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SECT. 2. *And be it further enacted*, That the Vice-President of the United States, officers judicial and executive of the government of the United States, the Members of both Houses of Congress and their respective officers, all Customhouse Officers and their Clerks, Judges of the Supreme Court and of the Court of Common Pleas, Chancellor, Attorney General, Secretary, and Treasurer of the State, Sheriffs, Gaolers and keepers of workhouses, all post-officers and stage-drivers who are employed in the care and conveyance of the mail of the Post-office of the United States, all ferrymen employed at any ferry on the post roads, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, ministers of religion of every denomination, professors and teachers in colleges, academies, Latin schools, and schoolmasters having twenty English scholars, and no other person or persons, shall be excepted from militia duty; but all young men under the age of twenty-one years, and all servants purchased *bona fide*, and for a valuable consideration, though enrolled agreeable to the first section of this law, shall be exempted from furnishing the necessary arms, ammunition and accoutrements as are required by the fourth section thereof, and shall be exempted from militia duties and fines during such minority or servitude, except in cases of rebellion, or an actual or threatened invasion of this or any of the neighbouring states.

Persons exempted from military duty.

From furnishing arms, &c.

SECT. 3. *And be it further enacted*, That the militia of this state be arranged into divisions, brigades, regiments, battalions and companies in manner and form following: The whole state to make one division, and each county to consist of one brigade; each brigade to consist of not less than two, or more than eight regiments; each regiment to consist of two battalions, and each battalion to consist of four companies, in such manner that no company shall consist of more than eighty, or less than forty privates, or as near as may be, having regard to their local situation; there

Arrangement of the militia.

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1793.

there shall be to each regiment at least one company of grenadiers, light infantry, or riflemen; and to each brigade there shall be at least one company of artillery, and one troop of horse, which shall be formed of volunteers from the respective regiments, at the discretion of the Governor. (c)

How the militia
shall be armed.

SECT. 4. *And be it further enacted,* That in order that the militia may be properly armed, equipped and accoutred, every citizen enrolled, and notified of his enrolment in manner aforesaid, except as herein before excepted, shall, within six months after receiving such notice, provide himself with the arms, ammunition and accoutrements herein after mentioned, *viz.* every non-commissioned officer and private of the infantry (including grenadiers and light infantry, and of the artillery) shall have a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch, with a box therein to contain not less than twenty-four cartridges suited to the bore of his gun, each cartridge to contain a proper quantity of powder and ball, or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; the commissioned officers of the infantry shall be armed with a sword or hanger, and an esop-ton, and those of artillery with a sword or hanger, a fuzee, bayonet and belt, and a cartridge box to contain twelve cartridges; the commissioned officers of the troops of horse shall furnish themselves with good horses of at least fourteen hands and a half high, and shall be armed with a sword and pair of pistols, the holsters of which shall be covered with bear skin caps; each light-horseman or dragoon shall furnish himself with a serviceable horse at least fourteen hands and an half high, a good saddle, bridle, mail pillion and valise holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartouch box to contain twelve cartridges for pistols; the artillery and horse shall be uniformly clothed in regimentals, to be furnished at their own expence, the colour

(c) See chap. 95. c. sects. 2, 5, further and other arrangement of the militia.

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colour and fashion to be determined by the Brigadier commanding the brigade to which they shall belong ; every militia-man shall appear so armed, accoutred and provided, when called out to exercise, or into service (except that when called out on company days, to exercise only, he may appear without a knapsack ;) and every man so enrolled as aforesaid, and providing himself with the arms, accoutrements and ammunition required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt, or payment of taxes ; each battalion and regiment shall be provided with the state and regimental colours, by the fieldofficers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company ; the expences of such colours, drums, fifes, or bugle horns to be repaid to the officers out of the fines incurred by this act : (d) *Provided always*, That whenever the field-officers of any regiment shall judge any person enrolled therein unable to equip himself as aforesaid, such person shall not be subject to any fine for not arming, any thing herein contained to the contrary notwithstanding.

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Shall appear
armed on days
of exercise.

Arms exempted
from distresses.

Who shall be ex-
empted from
fines for not
arming.

SECT. 5. *And be it further enacted*, That the militia shall be officered as follows: To a division one Major General, and two Aids de Camp, with the rank of Major ; to each brigade one Brigadier General, with one Brigade Inspector, to serve also as Brigade Major, with rank of Major ; to each regiment one Lieutenant Colonel Commandant, and to each battalion one Major ; to each company of infantry (including light infantry and grenadiers) one Captain, one Lieutenant, one Ensign, four Sergeants, four Corporals, one Clerk, one Drummer, and one Fifer or Bugler ; there shall be a regimental staff, to consist of one Adjutant and one Quarter Master, to rank as Lieutenants, one Paymaster, one Surgeon, and one Surgeon's Mate, one Sergeant Major, one Drum Major, and one Fife Major ; there shall be to each company of artillery,

How the militia
shall be officered.

one

(d) As per sect. 18, hereafter—but see chap. 95. c. sect. 10, the appropriation of
fines given to the Commdary of military stores provided for in sect. 9, of that chap.

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one Captain, two Lieutenants, four Sergeants, four Corporals, six Gunners, six Bombardiers, one Drummer, and one Fifer; and to each troop of horse there shall be, one Captain, two Lieutenants, one Cornet, four Sergeants, four Corporals, one Saddler, one Farrier, and one Trumpeter.

Officers, by
whom to be ap-
pointed.

SECT. 6. *And be it further enacted*, That the Governor shall on or before the first day of September next, appoint and commission the Major General, Brigadiers, Lieutenant Colonels, Majors, Captains, Lieutenants, Ensigns, and Cornets; that the Major General shall appoint their own Aids de Camp out of the line of Captains or Subalterns; that the Brigadiers shall appoint their Brigade Majors out of the line of Subalterns; (e) that the field officers of each regiment shall appoint their respective regimental staffs; and that each Captain shall appoint his Sergeants, one of which shall be appointed Clerk to the company, Corporals, Drummer and Fifer; that all commissioned officers shall be commissioned for seven years, and shall take rank according to the date of their commissions; and when two of the same grade bear equal date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

Of their com-
missions and
rank.

How the compa-
nies shall be
classified.

SECT. 7. *And be it further enacted*, That on the first Tuesday in April next ensuing, the Captain or Commanding Officer of each company shall call the persons belonging to the same together, giving due notice, and shall divide them into eight classes, as nearly equal in number to each other as conveniently may be, allotting a Sergeant or Corporal to each class; and eight slips of paper, numbered respectively from one to eight, being prepared, every private shall determine by drawing a ballot, what class he is to serve in; and in case any of the persons belonging to any company shall neglect to attend, at the time and place appointed for classing the said company, or if present, shall refuse to draw as aforesaid, then the
said

(e) Or "non-commissioned officers or privates," by sect. 15, of chap. 95. c.

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said Captain or Commanding Officer thereof shall appoint one disinterested freeholder to draw for the absentees, or persons so refusing; and when the classes shall be so settled, the Captain or Commanding Officer of each company shall form a roll, consisting of the eight classes, and the names and surnames of the men in each class, numbered according to the order of balloting, which he shall keep for his own use, (f) transmitting forthwith a copy thereof, with a list of his commissioned and non-commissioned officers prefixed, to the Colonel or Commanding Officer of the regiment, who shall enter the same in a book by him to be provided for that purpose; and the said Captain or Commanding Officer shall, on the first Tuesday in April, in every succeeding year, add to the said roll the names and surnames of all such male white inhabitants between the ages aforesaid, who, on the next preceding twelve months, have removed to and are then residing in that subdivision, or therein have attained the age of eighteen years, except as herein before are excepted, annexing them respectively to such class or classes as may still render all the classes of a company as nearly equal in number to each other as conveniently may be.

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1793.

The Captain shall form a roll of the classes, and transmit a copy to the Colonel.

SECT. 8. *And be it further enacted*, That to the end the militia when called by classes shall be properly officered, the following order is hereby directed and enjoined, *That is to say*, For the first draft, the Captain of the first company, the Lieutenant of the second, and the Ensign of the fourth; second draft, the Captain of the second company, the Lieutenant of the first, and the Ensign of the third; third draft, the Captain of the third company, the Lieutenant of the fourth, and the Ensign of the second; fourth draft, the fourth Captain, the Lieutenant of the third company, and the Ensign of the first; fifth draft, the fifth Captain, the Lieutenant of the sixth company, and the Ensign of the eighth; sixth draft, the sixth Captain, the Lieutenant of the fifth company, and

Drafts of the militia how officered, and called into service by classes.

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the

(f) See chap. 95, c. sect. 3, further provision for classing of companies and declaring what shall be a sufficient notification of enrolment in such class lists.

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The rule not to
be regarded in
case of emer-
gency.

When pay shall
commence and
end.

Pay of the mi-
litia.

Penalty for ne-
glecting a tour
of duty.

the Ensign of the seventh; seventh draft, the Captain of the seventh company, the Lieutenant of the eighth, and the Ensign of the sixth; the eighth draft, the Captain of the eighth company, the Lieutenant of the seventh, and the Ensign of the fifth; non-commissioned officers to take tour with the commissioned officers; and the field officers of regiments, in every division and brigade in the state, shall be divided in like manner; and each class to be considered as a detachment from different corps, liable to serve two months, and no longer, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved; but nothing herein contained shall prevent the Governor from employing and calling out part of any class, or any company or companies, regiment or regiments, without respect to this rule, whenever the exigency is too sudden to allow the assembling of the scattered militia, which compose the particular classes; and the service of the persons so called out shall be accounted as part of their tour of duty; and the pay of the militia in actual service shall commence two days before marching, and they shall receive pay and rations at the rate of fifteen miles *per* day on their return home.

SECT. 9. *And be it further enacted*, That when the militia, or any detachment thereof are called on duty, the pay of a Major General shall be Sixty Dollars *per* month; of each Brigadier General Fifty Dollars *per* month; of each Lieutenant Colonel Forty Dollars *per* month; of each Major Thirty Dollars *per* month; of each Captain Twenty-five Dollars; of each Lieutenant Twenty Dollars *per* month; of each Ensign Fifteen Dollars *per* month; of each Sergeant Eight Dollars *per* month; of each Corporal Seven Dollars *per* month; and of each private and musician Six Dollars *per* month; and that every person refusing or neglecting to perform his tour of duty, if a commissioned officer, shall pay the sum of Twenty-five Dollars, and forfeit such his commission, and if a non commissioned officer or private, the sum of Twelve Dollars for every such neglect or refusal.

SECT. 10. *And be it further enacted*, That when any
class

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class or classes of the militia shall be called to perform any tour of duty, the Brigade Major shall cause each and every such person so called to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other fit person to be employed for that purpose, at least three days before the time of assembling the said militia, unless the Governor on a sudden exigency, shall think proper to order any part of the militia into immediate service, and then the notice shall be given for immediate attendance. (g)

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How the militia called into service shall be notified.

SECT. 11. *And be it further enacted*, That every male white person within this state, between the ages of eighteen and forty-five, or who shall hereafter attain the age of eighteen years, except as before excepted, shall attend at the time and places appointed, in pursuance of this act, for the appearance of the company or regiment to which he belongs; and if any non-commissioned officer or private as aforesaid, required to be armed and accoutred with his firelock and accoutrements aforesaid in good order, or if any male white person between the ages aforesaid, although not required to be so armed and accoutred, shall neglect or refuse to appear on the parade, and answer to his name when the roll is called over, which the commanding officer is hereby directed to have done at the distance of one hour after the time appointed for meeting, not having a reasonable excuse, to be adjudged of by a Court Martial to be appointed by the commanding officer of the company, which shall consist of a Subaltern and four privates, the Subaltern to be President thereof, every such person shall forfeit and pay the sum of Fifty Cents. (h)

Penalty on privates for non-attendance on days of review and exercise;

As in sect. 4, Ante.

SECT. 12. *And be it further enacted*, That every person required to attend as aforesaid, at the time and place

and for neglect of duty.

(g) For further and more special provision relating to notification of tour of duty, called for to be performed by classes of the militia, and the penalties on privates and officers for non-performance thereof, see chap. 95. c. sects. 12, 13, 14.

(h) See chap. 95. c. sect. 6, alterations in the penalties above in sects. 11 and 13, distinguishing between non-attendance on days of exercise in company or battalion, and in regiments—and see sect. 18, there penalties for neglect of exercise or duty in the troops of horse—and see also sect. 20, for the penalty on persons enrolled in the militia who shall thereafter continue to meet in volunteer companies.

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Penalty on offi-
cers for non-at-
tendance on field
days.On other muster
days.A Clerk to be
appointed for
each company.

His duty.

And pay.

place of exercise in company or in regiment, who shall then and there appear, and shall neglect or refuse to answer to his name when the roll is called over, or to obey the lawful commands of his commanding officer, or to perform his exercise with the care and attention requisite therein, being convicted of any of the said offences by a Court Martial, to be appointed as afore-said, shall forfeit and pay for every such offence any sum not exceeding One Dollar and Forty Cents.

SECT. 13. *And be it further enacted*, That every commissioned officer who shall neglect or refuse to appear at the time and place appointed for exercise in battalion or regiment, having no reasonable excuse, to be adjudged of by such of the officers present, as any two of the field officers shall appoint, and there do and perform his duty, according to his office and station, shall forfeit and pay, if a Lieutenant Colonel Commandant Four Dollars, if a Major Three Dollars, if a Captain Two Dollars, and if a Subaltern or Staff Officer One Dollar and Twenty-five Cents; and every commissioned officer, who shall refuse or neglect to appear at the time and place appointed for exercise or other muster days, having no reasonable excuse, to be adjudged of by the officers present, or a majority of them, shall forfeit and pay for every such neglect or refusal, if a Captain One Dollar and Twenty-five Cents, and if a Subaltern One Dollar. (b)

SECT. 14. *And be it further enacted*, That the commissioned officers of every company shall appoint such Sergeant thereof, as they shall judge best qualified, to be Clerk thereto, who shall keep in a book to be provided by him for that purpose, to be viewed and examined from time to time by the commanding officer thereof, a fair and exact account of all fines and forfeitures incurred by persons belonging to the same, noting therein, at the time and place appointed for meeting in company, battalion or regiment, the names of the persons belonging to his company, and then absent; a transcript of which entries of fines and forfeitures, the said Clerk shall deliver to the Treasurer of his regiment, once in every three months, (i) by whom

(i) In sect. 7, chap. 95. c. an account of all fines is to be signed by the Captain

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whom he shall be paid Four Dollars a year for his services as Clerk aforesaid.

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SECT. 15. *And be it further enacted*, That it shall and may be lawful for the commissioned officers of each regiment, to meet on the first Tuesday in September annually, and chuse by ballot, to be taken under the inspection of the field officers, or such of them as attend, one reputable freeholder to be Treasurer to such regiment for the year thence next ensuing.

Treasurer for
each regiment,
to be chosen an-
nually.

SECT. 16. *And be it further enacted*, That the Treasurer of each regiment, before he enters on the duties by this act required of him, shall give bond to the Lieutenant Colonel Commandant of the same, in such sum and with such sureties as he shall approve of, conditioned for the faithful performance of the duties hereby enjoined him, and shall pay over all such sums of money as shall come to his hands, in pursuance of this act, in manner herein directed, and at the expiration of the year for which he was chosen, shall render an account (k) to the State Treasurer of all monies that have come into his hands as Treasurer of said regiment, and in what manner he hath disposed of the same; and the balance remaining in his hands, if any, shall be paid over to the State Treasurer, after deducting Twenty Cents in the Pound for his trouble.

To give bond.

Shall account
with the State
Treasurer.

His compensa-
tion.

SECT. 17. *And be it further enacted*, That the Treasurer is hereby impowered and required to sue for and recover all fines and forfeitures incurred by this act, (l) and if he shall neglect or refuse to sue for and recover all fines and forfeitures incurred by this act, once in every six months, he shall forfeit and pay for the first

Shall sue for all
fines.

or Commanding Officer of each company or troop, and by him transmitted to the Treasurer of the regiment, and a duplicate thereof to the Commissary of military stores, once in three months at the least, under the penalty of Twenty Dollars for every neglect.

(k) And pay over to the Military Commissary of his county all sums collected, every four months, deducting twelve Per Cent. for collection, by sect. 8, of said chap. 95. c.—and in sect. 11, the said Military Commissary is to account annually with the Auditor of Accounts, retaining four Per Cent.

(l) See sect. 7, of said chap. 95. c. a summary mode of collection prescribed, viz. distress and sale under a justices warrant, as in the case of county rates and levies. See also sect. 16, there.

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first offence the sum of Eight Dollars, and for the second, and every other offence, the sum of Sixteen Dollars.

Appropriation of
fines and forfei-
tures.

SECT. 18. *And be it further enacted*, That all fines and forfeitures, that shall be paid into the hands of any Treasurer of a regiment in pursuance of this act, shall be applied for the purpose of purchasing arms, accoutrements and ammunition for the use of the regiment, as the Governor shall order and direct, and for purchasing such drums, colours and fifes for the several companies, and also for paying adjutants, drummers and fifers, and in such manner as the field-officers thereof shall from time to time direct. (m)

Who shall have
power to call the
militia into ser-
vice.

SECT. 19. *And be it further enacted*, That the Governor shall have full power and authority, in case of an invasion, rebellion, or insurrection within this state, or any of the neighbouring states, to call into service such part of the militia, by classes, as to him shall seem necessary; and in case of the absence of the Governor of this state on any insurrection, rebellion, or invasion, the commanding officer of each brigade is hereby authorised and directed to issue his orders, to call out such part of the militia as he may judge immediately necessary.

Militia exempt-
ed from arrests
in civil actions.

SECT. 20. *And be it further enacted*, That no person or persons by this act directed to meet and muster, or perform any military duty, shall be liable to be arrested or taken by any Sheriff, Constable, or other officer, in any civil actions whatsoever, on the day of such meeting, in going to, or returning home from the place of such meeting or muster or other military duty; but every such arrest shall be void, and the officer making the same shall be liable to an action of trespass for false imprisonment at the suit of the party so arrested, and he shall be forthwith set at liberty and discharged from the custody of such officer, by order of any one Judge or Justice of the Peace of the county where such arrest is made, or of the Captain of the company to which such person doth belong.

SECT.

(m) See also sect. 10, of chap. 95. c. the power of appropriation of fines given to the Military Commissary, and the extension of them to a greater number of objects.

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SECT. 21. *And be it further enacted*, That the rules of discipline approved and established by Congress, in their resolution of the twenty-ninth of March, One Thousand Seven Hundred and Seventy-nine, shall be the rules of discipline to be observed by the militia of this state, except such deviations from the said rules as may be rendered necessary by the requisitions of an act of Congress, intituled, *An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States*, or by some other unavoidable circumstances: It shall be the duty of the commanding officer at every muster, whether by regiment, battalion, or single company, to cause the militia to be exercised and trained agreeable to the said rules of discipline.

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What rules of discipline shall be observed by the militia.

SECT. 22. *And be it further enacted*, That if any person, whether officer or soldier, belonging to the militia, and called out into service, be wounded or disabled while in service, he shall be taken care of, and provided for, at the public expense: That the Brigade Inspector, and two reputable freeholders, shall appraise the horse of each person serving as light-horsemen, immediately before the time of going into actual service, and enter the same in a book; and in case such horse shall be killed, die, or taken by the enemy, otherwise than by neglect, he shall be paid the full value of his horse.

Persons disabled shall be supported at the public expense.

Horses of light-horsemen to be appraised,

and in killed, the value to be paid.

SECT. 23. *And be it further enacted*, That the militia of this state shall be subject to such articles of war, as may be established by the General Assembly; and that they shall be tried by their own officers only.

Of articles of war, and trial of the militia.

SECT. 24. *And be it further enacted*, That the militia in this state shall be exercised and instructed in companies, in the months of April, June and September annually, at such time and place as the Captain or Commanding Officer shall direct, he giving notice thereof by advertisements at three of the most public places in his district, at least five days before the day of muster; and in regiments as follows: The first regiment on the second Monday in October in every year, the second regiment on the Tuesday following, and the third regiment on the Wednesday, and so on, according to their numerical rank, on every

When to be exercised in companies,

and in regiments.

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every day in the week, Saturdays and Sundays excepted, until the whole number of regiments shall have mustered and exercised in the aforesaid manner. (u)

Monies paid in-
to the treasury
by virtue of this
act, how appro-
priated.

SECT. 25. *And be it further enacted*, That all monies passing into the treasury, by virtue of the directions of this act, shall be appropriated as a fund for the purpose of supporting the necessary officers for carrying this law into effect, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state, the surplus, if any, to be appropriated in such manner, and to such uses, as the General Assembly shall from time to time direct and appoint; and the State Treasurer shall keep all the monies arising from fines by the militia law, separate from all other monies, and keep a separate book of the same, and the expenditures thereof pursuant to the directions of this act. (o)

The Governor
shall appoint an
Adjutant Gene-
ral.

SECT. 26. *And be it further enacted*, That the Governor shall appoint an Adjutant General in the state, whose duty it shall be to distribute all orders from the Commander in Chief of the state to the several corps, to attend all public reviews, when the Commander in Chief shall review the militia, or any part thereof, to obey all orders from him relative to carrying into execution and perfecting the systems of military discipline established by this act, to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made, to receive from the several officers of the different corps throughout the state returns of the militia under their command, reporting the actual situation of their arms, accoutrements and ammunition, and every other thing which relates to the general advancement of good order and discipline; all which the several officers of brigades, regiments and battalions are hereby required and directed to make in the usual

His duty.

(u) See sect. 5, of chap. 95. c. the foregoing times altered, to wit, of exercise in companies once in the months of April, August and November—in battalions in the month of May—and in regiments in the month of June annually.

(o) See also sects. 10, 11, of chap. 95. c. some alterations herein with more specific appropriations.

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usual manner, so that the Adjutant General may be duly furnished therewith; from all which returns he shall make proper extracts, and lay the same annually before the Governor or Commander in Chief of the state, and transmit a duplicate of the same to the President of the United States. (p)

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Passed June 18, 1793.

C H A P. XXXVII. c.

An ACT to enable Anna Adams and John Brown of Kent county, to bring from the state of Maryland into this state, two Negro slaves.

1793.

Passed June 18, 1793.—Private act.

C H A P. XXXVIII. c.

An ACT to vest the title of a tract of land in Phoebe Snow, Jane Wilson, and Robert Rees.

1793.

Passed June 18, 1793.—Private act.

C H A P. XXXIX. c.

An ACT for the better regulation of distresses for rent, and for other purposes therein mentioned.

1793.

WHEREAS for want of due regulation of distresses for rent much injury hath been suffered, Preamble.

SECTION 1. BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met, That from and after the publication

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of

(p) See sect. 21, of chap. 95. c. a repeal of so much of this act as is there altered and amended, or otherways provided.

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the said skipper or master, will not take, nor suffer to be taken, by any person whatever, any tobacco out of such hoghead or hogheads; that he will not exchange the said tobacco, or the cases which cover the same, nor suffer the same to be exchanged, and that he will not wilfully damage, or suffer to be damaged, such tobacco, whilst the same shall remain under his care and management; and if any skipper as aforesaid shall refuse or delay taking the oath, or affirmation, in manner and form aforesaid, such skipper, for every hoghead of tobacco taken on board contrary to the intention of this act, shall forfeit 7s. 6d. current money, the said penalties, fines and forfeitures, to be recovered before any justice of the peace, in the same manner as is hereinbefore directed.—*ibid.* § 3. See *Eacon*, &c. 5. *Passes*, 4. *Hides*, 2. *Inspectors*, 20. *Lighthouse*, 1. *Pilots*, 23. *Quarantine*, 1, 2, 4, 5, 6. *Tobacco inspected*, 2.

M I L I T I A.

1. **A** well regulated militia is the proper and natural defence of a free government.—*Declaration of rights*, 25.
2. Standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.—*ibid.* 26.
3. In all cases and at all times, the military ought to be under strict subordination to, and controul of the civil power.—*ibid.* 27.
4. No soldier ought to be quartered in any house in time of peace without the consent of the owner, and in time of war in such manner only as the legislature shall direct.—*ibid.* 28.
5. No person except regular soldiers, mariners and marines, in the service of this state, or militia when in actual service, ought in any case to be subject to, or punishable by martial law.—*ibid.* 29.
6. No field officer of the militia shall be eligible as a senator, delegate, or member of the council.—*Constitution*, 45.
7. Fit and proper persons in each county of this state shall be appointed by the governor and council to make true and exact lists of the names of all able bodied white male citizens between 18 and 45 years of age, (except as in the act of congress is excepted, that is to say: *The vice-president of the United States, the officers, judicial and executive, of the government of the United States, the members of both houses of congress, and their respective officers, all custom-house officers, with their clerks, all post-officers, and stage drivers who are employed in the care and conveyance of the mail of the post office of the United States, all ferrymen*

ferry-men employed at any ferry on the post-road, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, and also except as hereinafter excepted) distinguishing in the said lists the quakers, menonists, tinkers, and persons conscientiously scrupulous of bearing arms, and the apprentices and their trade, and the name of the master to whom they are apprenticed, and cause the said lists to be completed on or before the 10 day of April next, and shall return the same to the commissioners of the tax of the several and respective counties of this state, on or before the same day.---1793, c. 53, § 2.

8. Every person so appointed to take the lists of names in the several counties, shall be allowed at the rate of 2 2-3 dollars for every 100 persons so listed, to be paid by the treasurer of the shire where they reside, and the governor and council may, in their discretion, add to the sum to be allowed to the persons to be appointed in Allegany county, and diminish it in cases of appointments in Baltimore-town, as they may think just and necessary, so as to make the compensation equal to the service performed as nearly as may be.—*ibid.* § 3.

9. If any free male white citizen, of the age of 18 years and under 45 years, when called on by any of the persons so to be appointed by the governor and the council, shall not give in his name to be listed, if unknown to the person requiring it, he shall forfeit 10 dollars for every such offence.—*ibid.* § 4.

10. If any such person, of the age of 18 years and upwards, when called on, shall not inform the person so to be appointed, that he is of the age of 18 years and upwards, and if any such person under the age of 45 years, when called on as aforesaid, shall inform the person so to be appointed that he is of the age of 45 years or upwards, every such person so offending shall forfeit 10 dollars for every such offence.—*ibid.* § 5.

11. No free white male citizen, of the age of 18 and under 45 years, shall be excused from militia duty on account of inability, unless he shall obtain from the surgeon of the regiment to which he shall belong, or some reputable physician in his neighbourhood, a certificate that he is not of sufficient ability to perform militia duty.—*ibid.* § 6.

12. As soon as may be, and within 15 days after the 10 of April next, all the persons so to be appointed by the governor and council in each and every county, who shall accept such appointment, shall make true and exact returns of all the free white male citizens by them respectively listed to the governor and council, under the penalty of 40 dollars for every neglect; and the governor and council shall forthwith proceed to appoint proper officers thereto, agreeably to the provisions, of the Act of congress; that thereupon each and every free white male citizen,

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citizen, who shall be of the age of 18 years and under 45 years (except as before excepted,) shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company within whose bounds such citizen shall reside, under the direction of the brigadier-general of the brigade, and that on or before the 20 day of June next; and it shall at all times hereafter be the duty of every such captain or commanding officer of a company, to enrol every such citizen, and also those who shall from time to time, arrive at the age of 18 years, or being of the age of 18 and under 45 years, (except as before excepted,) shall come to reside within his bounds, and shall, without delay, notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. *ibid.* § 7.

13. On or before the 20 day of June next, the governor and council shall arrange the militia of the state into divisions, brigades, regiments, battalions and companies, and shall number each division, brigade and regiment, at the formation thereof, and a record shall be made of such numbers in the adjutant general's office; that if the same be convenient, each brigade shall consist of 4 regiments, each regiment of 2 battalions, each battalion of 5 companies, each company of 64 privates, 4 terjeants, 4 corporals, 1 drummer, and 1 fifer or bugler.—*ibid.* § 8.

14. Out of the militia enrolled as aforesaid, there shall be formed for each battalion at least one company of grenadiers, light infantry or riflemen, to each division there shall be a company of artillery and one troop of horse, formed and officered according to the directions of the act of congress.—*ibid.* § 9.

15. All commissioned officers, who shall be appointed by the governor and council, and who shall accept such appointment, shall, on or before the 10 day of July next, arm, accoutre, and provide themselves, as by the act of congress is directed, under the penalty of 20 dollars for such neglect; and each non-commissioned officer and matros in the artillery, and each non-commissioned officer and dragoon in the companies of horse, shall arm, accoutre, and provide himself, in like manner under the penalty of 6 dollars current money for such neglect.—*ibid.* § 10.

16. All ministers of the gospel, regularly ordained or licenced by any religious society, shall be exempted from militia duty.—*ibid.* § 11.

17. For the oath of militia commissioned officers—See *Oath of office*, Art. 33.

18. The state and regimental colours shall be provided by the field officers, and the drums and fifes, or bugle-horns, by the commissioned officers of companies, who shall contribute to the same in proportion to

to the pay they would respectively be entitled to receive if now called into actual service; and if the laid colours, &c. shall not be provided by the 1st day of August next, in the manner herein directed, every officer who shall have neglected to contribute his proportion shall forfeit one third of a month's pay.—*ibid.* § 13.

19. The whole of the militia, so enrolled, shall after the year 1794, be exercised under their respective officers, in companies on some day in the months of April and November, in battalion on some day in August, and in regiment on some day in Oct. after the 10 day thereof; the captains of companies shall appoint the days and places of meeting in companies, the majors shall appoint the days and places of meeting in battalion, and the lieutenant-colonels shall appoint the days and places of meeting in regiment; on each of which days every militia man so enrolled shall duly attend with his arms and accoutrements in good order; and the captain or commanding officer of each company is required to appoint a fit and proper person, who shall at the end of one hour after the time appointed for the meeting of the company battalion or regiment, call over the muster roll of the company, noting those who are absent, and on that day shall make return in writing to the captain or commanding officer then present, of such absentees; and all the persons so absent at the time of calling over the roll, or who shall depart from the parade before duly discharged, shall be liable to the fines hereafter mentioned.—*ibid.* § 14.

20. If any commissioned officer shall refuse or neglect to attend on any of the days which shall be appointed for exercise, accoutred and equipped as aforesaid, (unless prevented by sickness, or other unavoidable accident) he shall forfeit a sum not exceeding 6 dollars per day; and any non-commissioned officer or matross in the artillery, and any non-commissioned officer or dragoon, who shall so refuse or neglect to attend on any of the said days, armed and accoutred as aforesaid, (except as before excepted) shall forfeit a sum not exceeding two-thirds of a dollar per day; and all other non-commissioned officers and privates, who shall so refuse or neglect to attend, armed and accoutred as hereinbefore directed, (except as before excepted) shall forfeit one cent per day, unless excused for appearing without arms, &c. by the commanding officer of their respective companies for the day; and if they shall not attend on the several days of meeting, to be appointed, each and every person, so neglecting, shall forfeit half a dollar per day, unless prevented by sickness, or other unavoidable accident; the names and surnames of all which persons, so incurring the said fines and penalties, (except such as may have paid the same into the hands of the captain or commanding officer of the company) shall be duly and forthwith returned by the captain or commanding officer of each company, under his hand together with such fines as he has received, to the lieutenant-colonel of the regiment to which he shall belong, who shall, immediately

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ately after the said returns are made to him, cause the same to be respectively recovered before some justice of the peace living near the place where the delinquents respectively reside, as in the case of small debts; and the said lieutenant-colonel shall, twice in every year, account with the treasurer of his shore for all monies so received, and pay the same over to such treasurer, to be subject to the future application of the general assembly.—*ibid.* § 15.

21. A duplicate of all returns made to the lieutenant-colonels as aforesaid, and an account of all money paid to them, shall be annually lodged by the respective persons making such returns or payments with the treasurer of their respective shores.—*ibid.* § 16.

22. The militia residing in Kent island shall not be compelled to meet in battalion or regiment, but the companies composed of the militia on said island shall nevertheless be subject to be called together to exercise twice a year on the said island, exclusive of company meetings, at such times and at such place as the commanding officer of the battalion to which they belong shall direct, and shall be subject to the same fines for not appearing at said meetings as others are for not meeting in battalion or regiment.—*ibid.* § 17.

The 18 § which comprised the 23 art. here, is repealed by the supplementary act of 1798.

24. The master or mistress of any apprentice, and the father or mother or guardian of any minor, not a matross or dragoon, who shall refuse or neglect to attend, being in the service of his father, &c. shall be accountable for the fine or fines so incurred by such minor or apprentice.—*ibid.* § 19.

25. When any part or parts of the militia shall be draughted, or called out of the state into actual service, every person enrolled, who is not a commissioned officer, shall have it in his choice, either to serve in person, or to find a substitute, to be approved of by the lieutenant-colonel, or commanding officer of the battalion to which he shall belong; but if any person not being disabled by sickness, shall neglect or refuse to serve, or find such substitute in his place within 10 days after notice given to him, the lieutenant-colonel, or commanding officer of the battalion to which such delinquent belongs, shall provide, hire or procure, on as reasonable terms as may be, a substitute for such person so refusing or neglecting, and charge such sum or sums, together with reasonable expences for procuring the same, to such delinquent, to be recovered by distress and sale of his goods and chattels, lands or tenements, by warrant under the hands and seals of any two justices of the peace of the county where such person resides; and in all cases where it shall be necessary to recover any fine or forfeiture, or other money, wherewith any person or persons may become chargeable under this act, by distress and sale, or execution, of the property of such person or persons, it is the duty of the sheriff, or person executing for the same, to take such property.

property as shall be offered or shewn to such sheriff or person executing, amounting to such debt and cost, and if no property shall be shewn or offered, such sheriff or person executing, shall not take in execution any negro, or other valuable property, to satisfy a small or trifling fine or sum, if property of small value can be found, but he shall take such property, if any can be found as will pay the sum due with the cost of levying the same, and no more, as nearly as may be; and any person offending herein shall forfeit treble the sum so levied, to be recovered by the party grieved by indictment or action of debt in the county where the offence shall happen.—*ibid.* § 20.

26. But no lieutenant-colonel, or commanding officer of a battalion, shall be obliged to provide a substitute for any delinquent, unless he is of opinion that such delinquent, has sufficient property to pay the expences of procuring a substitute; and if such lieutenant-colonel, &c. shall be of opinion, that any delinquent has not sufficient property to pay the expences of procuring a substitute, he shall make application to a justice of the peace of the county where such delinquent resides who upon application, shall issue his warrant to the sheriff of the county to arrest the delinquent, and imprison him in the common gaol, there to remain for a certain time, to be specified in the warrant, not exceeding 20 days, and the sheriff shall be obliged to keep such delinquent in the common gaol, agreeable to the command of the said warrant, unless he shall agree to serve, or find a sufficient substitute in his place: But no militia man, having personally or by substitute served in the militia, shall be obliged to serve again until by rotation it comes to his turn.—*ibid.*

27. If any person or persons shall think him, her or themselves aggrieved in the seizure of his, her or their goods and chattels, lands or tenements, or by the executing his, her or their person or persons, he, she or they, may enter an appeal before the justices of the next county court, and on the party's giving sufficient security within 6 days next after any goods, &c. shall be seized or distrained as aforesaid, or his, her, or their person or persons executed as aforesaid, to prosecute such appeal with effect, the justices shall receive the same, and stay further process; and the said justices shall return every such appeal on the 2d. day of the next term, and the court shall direct a trial by jury of the county, as in other cases of debt, whose verdict shall be conclusive, and, except in extraordinary cases of which the court shall be judge, all such appeals shall be tried at the term to which such returns shall be made.—*ibid.* § 21.

28. No militia man shall leave the company to which he belongs, and join any other, under the penalty of 10 dollars, unless by consent of the captain, or commanding officer of the company, or in case of removing to some other district within this or any other state, and in such case he shall apply to the commander of such company, who shall give him

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him a certificate of his being discharged, under the penalty of 10 dollars.—*ibid.* § 22.

29. No person serving as a substitute for another, shall thereby be excused from serving in his turn.—*ibid.* § 23.

30. No officer or private of the militia shall be subject to any arrest, either on mesne process or execution, or in any other manner, for any civil matter, in his attendance at, going to, or returning from muster.—*ibid.* § 24.

31. If any suit or suits shall be brought or commenced against any person or persons for any thing done in pursuance of this act, the action shall be laid in the county where the cause or causes of such action did arise, and not elsewhere, and the defendant or defendants may plead the general issue, and give this act and the special matter in evidence; and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be non-suited, or discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs by law.—*ibid.* § 25.

32. All companies formed previous to the 20 day of May next, shall be continued and confirmed, subject to all duties, fines and penalties, to which the rest of the militia are subjected to by this act; provided that the governor and council, shall have the appointment and commissioning of the officers of the said companies.—*ibid.* § 26.

33. The field officers now having, or that may hereafter have, the command of the militia of Allegany county, shall appoint some day or days, not exceeding 4 days in each year, for the persons composing, or who may compose, the militia of said county, to meet and exercise (at such place or places in said county as the field officers of said county may deem convenient,) in battalion or companies, as may be most expedient, instead of the meeting in regiment as directed by the 14 §. of the act to regulate and discipline the militia of this state.—1797, c. 3, § 2.

34. The persons composing, the militia of said county, shall be liable to the same fines and forfeitures for not attending at such meeting or meetings appointed by virtue of this act, as they would heretofore have been liable to in not attending the meetings in regiment or battalions as established by law.—*ibid.* § 3.

35. The field officers of said county shall not direct more than one meeting of each battalion in said county in any one year.—*ibid.* § 4.—*See Governor, 5, 6.*

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MILLERS

Connecticut

Title CXII. Militia.

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the penalty of *one hundred and thirty-four dollars*, to the treasury of such county : to be recovered before the county court in the county where the transgression is committed. On penalty of 134 dollars.

§ 9. And the proceedings in settling and affixing such meeting-house place shall be at the charge of the society where such house is needed : and such county court shall be allowed the fees for their judgment thereon, as in the trial of other causes. Charge to be borne by the society.

TITLE CXI. *Mile-Stones.*

An Act to oblige the several Towns on the Post-Roads, to erect Monuments, shewing the Distances from the several County Towns on said Roads.

§ 1. **B**E it enacted by the Governour and Council and House of Representatives in General Court assembled, That it shall be the duty of the select-men in the several towns, on the several post-roads in this state, at the expense of such town, to erect and keep up mile-stones, at least two feet high, near the side of the common travelling road, marked with the distances from the county town of the county where such town lies, according to the mensuration made by public order.(1) Select-men to erect mile-stones on the roads.

§ 2. *Be it further enacted*, That if the select-men in such towns, shall neglect to erect such stones, marked as aforesaid, and to keep up the same for the space of one month after notice given to them for that purpose, shall pay and forfeit the sum of *seven dollars*, one half to him or them who shall prosecute the same to effect, the other half to the treasury of the towns where such select-men belong.(1) Penalty for neglecting in erecting.

§ 3. *And be it further enacted*, That if any person or persons, shall presume to pull down, break or deface any such monument or monuments, or any other monuments for the direction of travellers, erected by the order or approbation of the select-men shall incur a penalty of *seven dollars*, to be recovered by the select-men, of such town where the offence is committed, for the use of said town, by bill, plaint, or information, before any court proper to try the same.(2) Penalty on such as pull down or deface monuments.

(1) Passed in October, 1667. (2) Annexed at the revision in 1784.

TITLE CXII. *Militia.*

CHAP. I.

An Act for forming and conducting the Military Force of this State.

[Compiled in October, 1802.]

" WHEREAS the congress of the United States did, on the 8th day of May, A. D. 1792, pass An Act, entitled, " An Act

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more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," which is in the words following, viz.

Act of Congress recited.

Militia how and by whom to be enroled, to consist of persons from 18 to 45 years of age.

To be notified.

How to be armed and accoutred.

Officers how armed.

Muskets of what bore.

Arms, &c. to be exempt from execution.

Persons exempt from military duty.

§ 1. **B**E it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each and every free, able bodied, white, male citizen of the respective states, resident therein, who is, or shall be of the age of eighteen years, and under the age of forty-five years, except as is herein after excepted, shall severally and respectively be enroled in the militia, by the captain or commanding officer of the company, within whose bounds such citizen shall reside ; and that, within twelve months after the passing of this act, it shall, at all times, hereafter, be the duty of every such captain, or commanding officer of a company, to enrol every such citizen as aforesaid ; and also those who shall, from time to time, arrive at the age of eighteen years, and under the age of forty-five years, except as before excepted, shall come to reside within his bounds ; and shall, without delay, notify each citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved :—That every such citizen so enroled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch with a box therein to contain twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball ; or with a good rifle, knapsack, shot-pouch, and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder, and shall appear so armed, accoutred, and provided, when called out to exercise, or into service, except, that when called out on company days to exercise only, he may appear without a knapsack. That the commissioned officers shall severally be armed with a sword, or hanger and es-ponton : and that from and after five years from the passing this act, all muskets for arming the militia, shall be of bores sufficient for balls of the eighteenth part of a pound ; and every citizen so enroled and providing himself with the arms, ammunition, and accoutrements, required as aforesaid, shall hold the same exempt from all suits, distresses, executions, or sales for debt, or for the payment of taxes.

§ 2. *And be it further enacted,* That the vice-president of the United States, the officers, judicial and executive of the United States : the members of both houses of congress, and their respective officers, all custom-house officers with their clerks ; all post-officers and stage drivers, who are employed in the care and conveyance of the mail of the post-office of the United States ; all ferrymen employed at any ferry on the post road ; all inspectors of exports ; all mariners actually employed in the sea service of any citizen or merchant within the United States ; and all persons who are, or may hereafter be, exempted by the laws of the respective states, shall be, and

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are, hereby, exempted from military duty ; notwithstanding their being above eighteen, or under the age of forty-five years.

§ 3. " *And be it further enacted*, That within one year after the passing this act, the militia of the respective states shall be arranged into divisions, brigades, regiments, and companies, as the legislature of each state shall direct ; and each division, brigade, and regiment, shall be numbered at the formation thereof, and a record made of such numbers in the adjutant general's office in the state ; and when in the field, or in the service of the state, each division, brigade and regiment shall respectively take rank according to their numbers reckoning the first or lowest number highest in rank. That if the same be convenient, each brigade shall consist of four regiments, each regiment of two battalions, each battalion of five companies, each company of sixty-four privates. That the said militia shall be officered by the respective states, as follows ; to each division one major-general, and two aids-de-camp, with the rank of major ; to each brigade one brigadier-general, with one brigade inspector to serve also as brigade major ; to each regiment one lieutenant colonel commandant ; and to each battalion one major ; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, one fifer or bugler.—That there shall be a regimental staff, to consist of one adjutant, one quarter-master, to rank as lieutenant, one pay-master, one surgeon and surgeon's-mate, one sergeant-major, one drum-major, and one fife-major.

Militia how to be arranged.

Rank how determined.

How and by whom to be officered.

§ 4. " *And be it further enacted*, That out of the militia enrolled as is herein directed, there shall be formed for each battalion, at least one company of grenadiers, light infantry or riflemen ; and that to each division, there shall be, at least one company of artillery, and one troop of horse. There shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, and one fifer ; the officers to be armed with a sword or hanger, fusee, bayonet and belt, with a cartridge-box, to contain twelve cartridges ; and each private, or matross, shall furnish himself with all equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers to furnish themselves with good horses, of at least fourteen hands and a half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin caps ; each dragoon to furnish himself with a serviceable horse, at least fourteen hands and a half high, a good saddle, bridle, mail pillion and valice, holsters, and a breast-plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartridge box to contain twelve cartridges for pistols. That each company of artillery, and troop of horse, shall be formed of volunteers from the brigade, at the discretion of the commander in chief of the state, not exceeding one company of each to a regiment,

Each battalion to have one company of grenadiers, &c.

Artillery Company how officered.

Officers how to be armed.

Troops of horse how equipped, &c.

Artillery and troops of horse of whom to be formed.

- nor more in number than one eleventh part of the infantry ; and shall be uniformly clothed in regimentals, to be furnished at their own expense, the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.
- To be clad in uniform.
- What colours, &c. by whom to be furnished. Each company with a drum, fife, &c. Adjutant-general in each state, his duty.
- § 5. "*And be it further enacted*, That each battalion and regiment shall be provided with a state and regimental colours by the field officers ; and each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the legislature of the state shall direct.
- § 6. "*And be it further enacted*, That there shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander in chief of the state to the several corps ; to attend all public reviews, when the commander in chief of the state shall review the militia, or any part thereof ; to obey all orders from him relative to carrying into execution, and perfecting the system of military discipline established by this act ; to furnish blank forms of different returns that may be required, and to explain the principles on which they shall be made ; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, respecting the actual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline : all which the several officers of the divisions, of the brigades, regiments, and battalions, are hereby required to make in the usual manner, so that the said adjutant-general may be duly furnished therewith ; from all which returns he shall make proper abstracts, and lay the same annually before the commander in chief of the state.
- Rules of discipline.
- § 7. "*And be it further enacted*, That the rules of discipline approved and established by congress in their resolutions of the 29th of March 1779, shall be the rules of discipline, to be observed by the militia throughout the United States, excepting such deviations from the said rules as may be rendered necessary by the requisitions of this act, or by some other unavoidable circumstances. It shall be the duty of the commanding officer, at every muster whether by battalion, regiment, or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline.
- Officers how to take rank.
- § 8. "*And be it further enacted*, That all the commissioned officers shall take rank according to the date of their commissions ; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn by them, before the commanding officer of the brigade, regiment, battalion, company, or detachment.
- Provision in case of wounds.
- § 9. "*And be it further enacted*, That if any person whether officer or soldier, belonging to the militia of any state, and called out into service of the United States, be wounded or disabled while in actual service, he shall be taken care of at the public expense.
- § 10. "*And be it further enacted*, That it shall be the duty

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of the brigade inspector, to attend the regimental and battalion meeting of the militia, composing the several brigades during the time of their being under arms, to inspect their arms, ammunition, and accoutrements; superintending their exercise and manœuvres, and introduce the system of military discipline before described, throughout the brigade, according to law; and such orders as they shall, from time to time, receive from the commander in chief of the state; to make returns to the adjutant-general of the state, at least once in every year, of the militia of the brigade to which he belongs; reporting therein the actual situation of the arms, accoutrements, and ammunition of the several corps; and in every other thing, which, in his judgment, relates to their government; and the general advancement of good order and military discipline. And the adjutant-general shall make a return of all the militia in the state, to the commander in chief of the said state, and a duplicate of the same to the president of the United States.

Brigade inspector's duty.

"And whereas sundry corps of artillery, cavalry and infantry, now exist in several of the said states, which by the laws, customs, and usages thereof, have not been incorporated with, or subject to, the general regulations of the militia.

Artillery, &c. now existing,

"§ 11. *Be it further enacted*, That such corps retain their accustomed privileges, subject nevertheless to all other duties required by this act, in like manner with the other militia.

to retain their privileges.

"JONATHAN TRUMBULL, *Speaker of the House of Representatives.*

"RICHARD HENRY LEE, *President pro tempore of the Senate.*

"APPROVED, May the 8th, 1792.

"GEORGE WASHINGTON, *President of the United States.*"(1)

Now therefore, to carry the same into execution agreeably to the requirements thereof:

§ 1. **B***E it enacted by the Governour and Council and House of Representatives in General Court assembled*, That each and every free, able bodied, white, male citizen of this state, or resident therein, who is, or shall be, of the age of eighteen years,(2) and under the age of forty-five years,(3) except as is therein specially excepted; excepting also, members of the council,(4) and of the house of representatives,(5)

Militia of whom to be composed.

(1) The foregoing act of Congress was introduced into this act in October, 1792.

(2) From the earliest period of our government,—(as early, at least, as March, 1638,)—till the act of Congress in 1792, the age at which persons became liable to do military duty, was sixteen.

(3) *Forty-five* was established as the age of exemption from military duty in

October, 1772. Originally, it was unlimited;—in October, 1708, *fifty*.

(4) By the act under the title of "*Military Affairs*," in the code compiled in 1650, "*magistrates and church officers*" were exempted. In December, 1776, the latter class of exemptions was restricted to "*ministers of the gospel*," in the *alarm list*, and in May, 1782, as to military duty generally.

(5) Exempted at the revision in 1807

Persons ex-
empted from
military duty.

for the time being ; the state treasurer,(6) secretary,(5) and controller ;(7) justices of the peace ;(5) commissioner of loans ;(7) general, field, commissioned, and staff officers,(8) honourably discharged ; ministers of the gospel ;(4) the president,(9) professors,(10) and tutors(9) of Yale-College ; graduates residing in *New-Haven*, subject to the laws and under the instruction of the officers of college, until the time of taking their second degree,(11) and students(9) until the time of taking their first degree ; licensed physicians and surgeons ;(12) selectmen ;(8) constant schoolmasters ;(12) one miller to each grist-mill,(13) being approved by the selectmen, and producing a certificate thereof ;(14) sheriffs(5) and constables,(5) constant ferrymen,(5) sergeants who have removed out of the limits of their company, and not re-appointed, having served three years, producing a certificate of such service from the commanding officer of the regiment ;(15) such non-commissioned officers and soldiers, as in the late war enlisted during the war, and were honourably discharged ;(16) such persons as are constantly employed at furnaces while in blast, not exceeding eight to each furnace, the number to be allowed and certified by the selectmen of the town where such furnace may be ;(17) and all such as are exempted by special act of the general assembly,(18) shall be enrolled in companies as therein directed ; and a soldier once enrolled in any company, having had six months notice to equip himself, and afterwards moving into the limits of any other company, shall be subject to military duty, in the company where he resides, immediately after warning given him ;(19) and such companies shall be formed into regiments as follows, viz.—Those in the town of *Hartford* (the companies of horse and foot guards excepted) those in the town of *Windsor*, exclusive of those being in the society of *Turkey-Hills* in said *Windsor*, and those in that part of *Farmington* lying in the society of *Wintonbury*, shall form the first regiment. Those in the towns of *New-Haven*, *East-Haven*, *North-Haven*, and *Hamden* (the company of guards in *New-Haven* excepted)

Regiments
how formed.

1st Regiment.

2d Regiment.

(6) This officer, was not expressly exempted by any act until December, 1776, when he was exempted from the alarm list.

(5) Exempted at the revision in 1702.

(7) Exempted in October, 1802.

(8) Exempted in May, 1782.

(4) See note, page 499.

(9) Exempted in May, 1741.

(10) Exempted in October, 1792.

(11) The act of October, 1792, exempted " students until the time of taking their second degrees." In October, 1802, graduates were placed upon their present footing.

(12) Exempted at the revision in 1622.

(13) At the revision in 1672, millers

were exempted : At that in 1702, the exemption was restrict one miller.

(14) Introduced in May, 1782.

(15) The act of October, 1792, exempted non-commissioned officers, who had removed out of the limits of their command, and were not re-appointed, and such as had been honourably discharged. By the act of October, 1799, it was required, that they should have performed the duties of non-commissioned officers for three years as a prerequisite to exemption. By a further modification in October, 1802, the existing clause was produced.

(16) Passed in May, 1782.

(17) Passed in October, 1799.

(18) Introduced in October, 1792.

(19) Passed in October, 1793.

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shall form the second regiment. Those in the towns of *New-London*, *Montville* and *Waterford* (excepting that part of *Waterford*, which is annexed to the 33d regiment, as is herein after expressed) shall form the 3d regiment. Those in the towns of *Fairfield*, *Weston* and *Reading* shall form the 4th regiment. Those in the towns of *Windham*, *Hampton* (excepting the former bounds of *Canterbury*) *Mansfield*, and *Ashford*, shall form the 5th regiment. Those in the towns of *Wethersfield*, *Glastenbury*, and that part of *Berlin* which composes the society of *Worthington*, shall form the 6th regiment. Those in the towns of *Saybrook*, *Killingworth*, and *Haddam* (excepting that part of *Haddam* lying east of Connecticut river,) shall form the 7th regiment. Those in the towns of *Groton* and *Preston* (excepting those in that part of *Preston* which was formerly part of *Norwich*) shall form the 8th regiment. Those in the towns of *Greenwich*, *Stamford* and *New-Canaan* (excepting those in the societies of *Canaan* and *Middlesex*) shall form the 9th regiment. Those in the towns of *Wallingford*, *Cheshire*, *Durham* and that part of *Waterbury* lying in the society of *Columbia*, shall form the 10th regiment. Those in the towns of *Pomfret*, *Woodstock*, *Killingly* (excepting the south society) *Thompson*, and *Brooklyn*, (excepting the south company and artillerymen) shall form the 11th regiment. Those in the towns of *Lebanon*, *Hebron*, and the company in the society of *Marlborough*, in *Colchester*, and those in the society of *Andover*, in *Coventry*, shall form the 12th regiment. Those in the towns of *Woodbury*, *Southbury*, *Bethlem* and *Roxbury* (excepting that part of *Southbury*, included in *Oxford* company, excepting also that part of *Woodbury* and *Southbury* included in the parish of *Middlebury*) shall form the 13th regiment.(20) Those in the towns of *Salisbury*, *Canaan*, and *Norfolk* shall form the 14th regiment.(21) Those in the towns of *Farmington*, *Berlin*, *Bristol*, and *Southington*, excepting the parish of *Worthington* in *Berlin*, shall form the 15th regiment.(22) Those in the towns of *Danbury*, *Brookfield*, *Newtown*, *New-Fairfield* (excepting that part which now forms the north company) and *Ridgfield* (excepting that part which now forms the south company,) shall form the 16th regiment.(23) Those in the towns of *Litchfield*, *Harwinton* and *Torrington*, shall form the 17th regiment.(24) Those in the towns of *Simsbury* and *Granby*, and that part of the town of *Windsor*, lying in the society of *Turkey-Hills* (excepting that part of a company hereafter annexed to the 31st regiment) shall form the 18th regiment.(24)

(20) In October, 1739, the militia of the Colony was divided into thirteen regiments, which have not been much altered since, except by the formation of new ones from them. Before that time, the militia of each County consti-

tuted a regiment under the command of a *sergeant-major*.

(21) Established in October, 1767.

(22) Established in October, 1769.

(23) Established in October, 1771.

(24) Established in May, 1774.

19th Regiment.	Those in the towns of <i>East-Hartford</i> , <i>Bolton</i> , <i>East-Windsor</i> and that part of <i>Ellington</i> lying west of a line running north from the north-west corner of <i>Tolland</i> to <i>Somers</i> , shall form the 19th regiment.(25) Those in the towns of <i>Norwich</i> , <i>Bozrah</i> , <i>Franklin</i> , <i>Lisbon</i> , and that part of <i>Preston</i> which was formerly <i>Norwich</i> , and that part of <i>Canterbury</i> lying in <i>Hanover</i> society, shall form the 20th regiment.(25) Those in the towns of <i>Plainfield</i> , <i>Canterbury</i> , <i>Voluntown</i> , <i>Sterling</i> and the south company, with the artillerymen in <i>Brooklyn</i> , and that part of <i>Hampton</i> formerly in <i>Canterbury</i> , and the south society in <i>Killingly</i> (excepting that part of <i>Canterbury</i> in <i>Hanover</i> society) shall form the 21st regiment.(25) Those in the towns of <i>Tolland</i> , <i>Stafford</i> , <i>Willington</i> , <i>Union</i> , and that part of <i>Ellington</i> , lying east of a line running north from the north-west corner of <i>Tolland</i> to <i>Somers</i> , and <i>Coventry</i> , (excepting <i>Andover</i> society) shall form the 22d regiment.(25) Those in the towns of <i>Middletown</i> , and <i>Chatham</i> , and that part of <i>Haddam</i> lying east of Connecticut river, shall form the 23d regiment.(26) Those in the towns of <i>Colchester</i> , (excepting the society of <i>Marlborough</i>) and of <i>East-Haddam</i> (excepting that part of the society of <i>Hadlyme</i> , which lies in <i>East-Haddam</i>) shall form the 24th regiment.(27) Those in the towns of <i>New-Hartford</i> , <i>Hartland</i> , <i>Winchester</i> , <i>Barkhemated</i> , and <i>Colebrook</i> , shall form the 25th regiment.(28) Those in the towns of <i>Waterbury</i> (excepting that part of <i>Waterbury</i> included in <i>Oxford</i> company) <i>Watertown</i> , <i>Plymouth</i> and <i>Wolcott</i> , including that part of <i>Woodbury</i> and <i>Southbury</i> included in the society of <i>Middlebury</i> (excepting that part of <i>Southbury</i> included in <i>Oxford</i> company, and excepting that part of <i>Waterbury</i> , included in the society of <i>Columbia</i>) shall form the 26th regiment.(29) Those in the towns of <i>Guilford</i> and <i>Branford</i> , shall form the 27th regiment.(30) Those in the towns of <i>Stratford</i> , <i>Huntington</i> and <i>Trumbull</i> , shall form the 28th regiment.(31) Those in the towns of <i>Washington</i> , <i>New-Milford</i> , <i>Warren</i> , <i>Kent</i> , and <i>New-Fairfield</i> north society (except that part of <i>Warren</i> lying in <i>Milton</i> society) shall form the 29th regiment.(32) Those in the town of <i>Stonington</i> , shall form the 30th regiment.(33) Those in the towns of <i>Suffield</i> , <i>Enfield</i> , and <i>Somers</i> , and that part of a company in <i>Grant</i> with part of a company in <i>Suffield</i> , on the west side of the mountain, shall form the 31st regiment.(34) Those in the towns of <i>Milford</i> , <i>Derby</i> , <i>Woodbridge</i> , and <i>Oxford</i> , and that part of <i>Southbury</i> and <i>Waterbury</i> in <i>Oxford</i> company, shall
20th Regiment.	
21st Regiment.	
22d Regiment.	
23d Regiment.	
24th Regiment.	
25th Regiment.	
26th Regiment.	
27th Regiment.	
28th Regiment.	
29th Regiment.	
30th Regiment.	
31st Regiment.	
32d Regiment.	

(25) Established in October, 1774.

(26) Established in May, 1775.

(27) Established in May, 1776, by the name of the *twenty-fifth regiment*. The year before, a regiment had been established in the town of *Westmoreland* called the *twenty-fourth*. At the revision in 1784, the latter was expunged,

and the former became the twenty-fourth.

(28) Established in May, 1778.

(29) Established in January, 1780.

(30) Established in May, 1782.

(31) Established in October, 1786.

(32) Established in May, 1790.

(33) Established in October, 1790.

(34) Established in October, 1791.

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form the 32d regiment.(35) Those in the town of *Lyme*, and that part of *Waterford* lying on the west side of Niantic river, and that part of the society of *Hadlyme* lying in *East-Haddam*, shall form the 33d regiment.(35) Those in the towns of *Norwalk*, the first society in *Ridgfield*, *Wilton*, and those in the societies of *Canaan* in *New-Canaan*, and *Middlesex* in *Stamford* and *New-Canaan*, shall form the 34th regiment.(35) Those in the towns of *Sharon*, *Cornwall*, *Goshen* and that part of *Warren* lying in the parish of *Milton*, now forming a company with *Goshen* and *Cornwall*, shall form the 35th regiment.(35) If it shall so happen that a company be divided, and part put into one regiment and part into another, the minor part of such company shall belong to the regiment to which the major part belongs, any description or division herein before contained, notwithstanding.(36)

33d Regiment.

34th Regiment.

35th Regiment.

§ 2. *And be it further enacted*, That the regiments shall be formed into brigades, as follow :—viz. the 1st, 18th, 19th, 22d and 31st regiments shall form the 1st brigade. The 2d, 7th, 10th, 27th and 32d regiments shall form the 2d brigade. The 3d, 8th, 20th, 30th and 33d regiments shall form the 3d brigade. The 4th, 9th, 28th and 34th regiments shall form the 4th brigade. The 5th, 11th, 12th and 21st regiments shall form the 5th brigade. The 14th, 17th, 25th and 35th regiments shall form the 6th brigade. The 6th, 15th, 23d and 24th regiments shall form the 7th brigade. The 13th, 16th, 26th and 29th regiments shall form the 8th brigade.(37)

Brigades.

1st.

2d.

3d.

4th.

5th.

6th.

7th.

8th.

§ 3. *Be it further enacted*, That the brigades shall be formed into divisions, as follow :—viz. the 1st and 7th brigades shall form the 1st division. The 2d and 4th brigades shall form the 2d division. The 3d and 5th brigades shall form the 3d division. The 6th and 8th brigades shall form the 4th division.(38)

Divisions.

1st.

2d.

3d.

4th.

§ 4. *Be it further enacted*, That to each company of artillery, there shall be one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and thirty-two privates. That each company of cavalry shall consist of forty, exclusive of commissioned officers. That all companies of artillery, grenadiers, and light-infantry which are, or may be established, shall be attached to the regiments ; and all companies of cavalry shall be attached to the brigades, from which they are, or shall be taken ; that the cavalry shall be formed into eight regiments, and annexed severally to the brigades, by direction of the captain-general.(39) And there shall be to each regiment a lieutenant-colonel commanding and a major ;(40) that the officers commanding the cavalry, light-infantry and grenadier companies, shall have liberty to recruit their respective compa-

Artillery and cavalry how formed and officered.

Companies of artillery, &c. attached to regiments ; of cavalry, to Brigades.

(35) Established in October, 1792.

(36) Passed in October, 1739.

(37) In December 1776, the regiments of militia in the state were formed into six brigades. The seventh and

eighth were formed, in October, 1792.

(38) Passed in October, 1792.

(39) Part of the act of October, 1792.

(40) Passed in October, 1796.

Cavalry to be formed into eight regiments, and annexed to brigades. Mode of recruiting, cavalry, light-infantry and grenadiers.

Captain-General, &c.

Officers how nominated appointed, commissioned, &c.

How to rank.

panies from such battalion companies in the regiment to which they belong, as shall have more than sixty-four privates ;(41) and the commandant of each brigade shall have power to authorize the officers commanding companies of cavalry, to recruit from such battallion companies in the brigade as he shall judge proper, preserving the proportion as forty, to sixty-four.(42) And the commandant of each regiment shall also have power to authorize the officers commanding artillery, light-infantry and grenadier companies, to recruit from such battalion companies in his regiment, that have not their full compliment, as he shall think proper, preserving a due proportion between the enlisted and other companies.(43)

§ 5. *Be it further enacted*, That the governour, for the time being, shall be captain-general and commander in chief of the militia,(44) and the lieutenant-governour, for the time being, shall be lieutenant-general.(45)

§ 6. *Be it further enacted*, That the general and field officers shall be appointed by the general assembly, and commissioned by the governour ;(46) that the captains and subalterns shall be nominated by their several companies, the commanding officer first causing notice to be given to the individuals of his company, that he is about to lead them to the choice of commissioned officers ; and, if approved by the general assembly, shall be commissioned by the governour ;(47) that the non-commissioned officers shall be chosen by the company, and each sergeant shall have a warrant from the commanding officer of the regiment,(48) who shall have power to reduce to the ranks any non-commissioned officer, whom on complaint made, and due notice given, he shall find guilty of misconduct or neglect of duty :(49) and all commissions issued by the governour to company officers, shall express the day from which such officers shall respectively take rank, which shall be the day of the date of the general's order directing the company to lead to the choice ;(50) and when two majors are appointed to one regiment at the same session of the general assembly, the dates of their commissions shall be according to priority of appointment.(49)

§ 7. *Be it further enacted*, That the captain-general shall appoint the adjutant-general,(51) who shall have the rank of

(41) Passed in October, 1802.

(42) Passed in October, 1797.

(43) Passed in May, 1797.

(44) The military act, as revised in 1672, declared the governour for the time being to be the general of all the military forces in the Colony. The title, "*Captain General and Commander in Chief*," was given at the revision in 1750.

(45) Passed in October, 1739.

(46) Such officers have always been appointed and commissioned in this manner, though the clause referred to was not passed till October, 1792,

(47) A section of the military act, as it existed in the code of 1650, provided, that the officers should be chosen by the soldiers, and confirmed by the Particular Court. At the revision in 1672, the power to confirm commission officers was restricted to the General Court.

(48) Passed in May, 1782. From the revision in 1672, until towards the middle of the last century, they were established by the County Court.

(49) Passed in October, 1792.

(50) Passed in October, 1802.

(51) Passed in May, 1782.

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brigadier, and be commissioned accordingly. The captain-general shall appoint for himself two aids-de-camp, who shall have the rank of lieutenant-colonel. The lieutenant-general shall appoint for himself two aids-de-camp, who shall have the rank of major. Each major-general shall appoint his aids-de-camp. Each brigadier shall appoint his brigade-inspector. All which appointments shall be published in orders.(49) Each commanding officer of a regiment shall appoint his adjutant, paymaster, and quartermaster, from the line of subalterns, who shall retain their commissions and rank, such appointments notwithstanding ;(52) also a chaplain, surgeon, surgeon's-mate, sergeant-major, quarter-master-sergeant ; drum-major, and fife-major ; which appointments shall be evidenced by warrants under his hand.(53)

Staff officers,
how appointed.

See ch. 4. § 1.

§ 8. *And be it further enacted*, That a quarter-master-general shall be appointed by the governour and council, with the rank of lieutenant-colonel commandant, whose duty shall be to take care of all military stores, camp-equipage and utensils, which do or shall belong to this state, according to law, and the orders of the captain-general, and return make when required, to the captain-general and the general assembly ; and to do and perform all the duties which are necessary and proper for a quarter-master-general.(54)

Quarter-Mas-
ter-General,
His rank.
His duty.

§ 9. *And be it further enacted*, That the barrel of the fire-lock for the infantry shall be, at least, three feet and a half long, furnished with a priming wire and brush ; and each sergeant and corporal of the infantry, shall have a screw-driver and worm, more than is required by said act : and the sabres for the cavalry shall be four feet long ; and the non-commissioned officers and privates of the artillery shall be armed with a sword or hanger.(55)

Infantry and
cavalry how
to be armed.

§ 10. *Be it further enacted*, That it shall be the duty of each non-commissioned officer, and private of the artillery, cavalry and infantry to furnish himself with the arms, ammunition and accoutrements, required by the said act of congress, and by this act. That the field and commissioned officers of each regiment of cavalry and infantry shall at their own expense, be uniformly clothed in regimentals, to be agreed upon by them, and that the expense, not exceeding

Arms and ac-
coutrements.

Officers to be
in uniform.

(49) Passed in October, 1792.

(52) The act of May, 1782, required the commanding officer of each regiment to appoint a pay-master and quarter-master *from the line*. In May, 1792, it was provided generally, that such officer should appoint his regimental staff, and a chaplain. In May, 1798, the clause in the text was passed.

(53) The act of May, 1782, required a sergeant-major, a quartermaster-sergeant, a drum-major, and a fife-major, in each regiment, to be appointed by the

commanding officer, from the list of sergeants, drummers and fifers. The act of May, 1792, provided generally, that such officer should appoint his non-commission staff. In October, 1802, the clause in the text assumed its present form.

(54) Passed in October, 1795. In October, 1802, the mode of appointment was altered, and the rank designated.

(55) Passed in October, 1802.

Colours, provided by the state for each regiment. Persons enlisting, not to be excused until, &c.

fifteen dollars, shall be allowed to each regiment, for providing state and regimental colours out of the state treasury.(56)

§ 11. *And be it further enacted*, That no person belonging to any battalion company, shall under colour of enlisting into any company of artillery or cavalry, be excused from doing duty in the infantry, until he shall have completely equipped himself for service in the artillery or cavalry according to law, and shall have produced a certificate thereof, from the commanding officer of such artillery or cavalry, to the commanding officer of such battalion company ; nor shall any person under eighteen years of age enlist into the cavalry or artillery.(55)

Companies to be ordered out three days in a year.

§ 12. *And be it further enacted*, That every commanding officer of a company of militia shall order out his company three days in each year, not less than six hours in each day, and instruct them in the use of arms, and discipline of war. The days appointed shall be in the months of *April, May* or *September* ; that on the first Monday of *May* and *September* annually, such commanding officer shall cause the arms, ammunition, and accoutrements of all under his command, to be reviewed and inspected.(57)

Arms, &c. to be inspected.

Regimental reviews.

That the commanding officer of each regiment shall order out his regiment, by regiment or battalion, once in each year for exercise, inspection, or review,(58) at such time, and in such manner, as the officer commanding the brigade shall direct,(59) that on days of regimental or battalion inspection or review, battalion companies shall take rank, and be posted according to seniority ; to be determined by referring to the several acts of the general assembly, authorizing their formation. And whenever there are two flank companies, they shall take rank and be posted, according to the same rule, and the officers of such companies shall remain with their respective companies : and the officers of the battalion companies, shall be posted for regimental or battalion exercise, agreeably to the directions given for posting officers to guards, as pointed out in the second article of the twenty-second chapter in the rules of discipline established by congress in their resolution of *March* 29th, A. D. 1779 ; and the second flank company, shall on days of review, be posted on the left of the second battalion, and on days of inspection by battalion, on the right of such battalion.(60)

Companies ranked.

And officers.

§ 13. *And be it further enacted*, That whenever a regiment or battalion shall be ordered out for inspection, it shall

(56) Passed in October, 1792 : Altered in October, 1802

(55) Passed in October, 1802.

(57) In September, 1636, it was provided, that the military companies should be called out *monthly* for exercise ; in March, 1638, *ten* days in a year ; in August 1639, *six* ; at the revision in 1702, *four* ; and in October, 1792, *three*. The days for company review and inspection were, from Octo-

ber, 1782, until October, 1795, the first Mondays in May and October.

(58) In 1672, the commanding officer of each regiment was *authorized* to call out the several companies thereof, for instruction and exercise, once in *four* years. In May, 1782, he was *required* to call them out, for regimental exercise and review, once in *two* years ; in May, 1792, once in each year.

(59) Passed in October, 1795.

(60) Passed in May, 1798.

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be the duty of the brigade inspector to inspect such regiment or battalion, agreeably to the second article of the 25th chapter, of the rules of discipline aforesaid ; and he shall take an accurate account from personal inspection of the quality of the arms and accoutrements, and whether the same are fit or unfit for actual service ; and shall ascertain with precision the bores of musquets, and make annual returns of the state of the militia in the brigade to which he belongs, to the adjutant-general.(61)

Regiments, &c. to be inspected by the brigade inspector. Returns to be made to the adjutant-general.

§ 14. *And be it further enacted*, That whenever the captain-general shall deem it necessary, he may issue his orders, directing the brigade inspectors to meet the adjutant-general at such time and place as he may appoint, to confer with him, and to receive his directions relative to their official returns, and other parts of their duty, and to afford him that assistance and co-operation which the public service may require : and the said officers shall be allowed *nine cents* per mile for travel to and from such place of meeting.(62)

Captain-general may order brigade inspectors to meet the adjutant-general for directions, &c.

§ 15. *And be it further enacted*, That in all cases where the militia are to be warned for the choice of officers, for exercise, review of parade, or inspection, three days notice shall be given, exclusive of the day of warning.(63)

Three days warning for exercise, &c.

§ 16. *And be it further enacted*, That the fines and penalties incurred for non-appearance and deficiency of arms, ammunition and accoutrements, shall be as follows, viz. Each sergeant-major, quarter-master-sergeant, drum-major, fife-major, sergeant, corporal, drummer, fifer, trumpeter, and bugler, who shall neglect to appear, at time and place appointed, for regimental exercise, inspection, or review, shall forfeit and pay a fine of *five dollars* ; and for each day's neglect to appear at time and place appointed for company exercise, inspection, or review, a fine of *four dollars*. That each private shall for non-appearance, on any day of regimental or battalion exercise, inspection or review, forfeit and pay a fine of *four dollars* ; and for non-appearance on any day of company exercise, inspection or review, a fine of *two dollars and fifty cents* ;(64) unless any such person shall appear before the commanding officer of the company, within twelve days after such day of exercise, inspection, or review, and make satisfactory excuse for his non-appearance on said day ;(65) that each non-commissioned officer and private, who appears on parade, shall for deficiency of arms, ammunition and accoutrements, forfeit and pay for each day of exercise, inspection, or review the following fines, viz. For a gun or pair of pistols, each, *seventy-five cents* ; for a sabre or hanger, bayonet or cartridge-box, each, *fifty cents* ; and for each other article required by law, *twenty-five cents* ;(66) and no horse-

Fines for non-appearance, &c.

(61) Abstracted in May, 1802, from the act of May, 1798.
 (62) Passed in October, 1802.
 (63) Passed at the revision in 1672.
 (64) The fines for neglect of military

duty have been often varied. They were established at the present sums in October, 1802.
 (65) Passed in May, 1741.
 (66) Passed in October, 1799.

Time and mode of inspection and review.

man who shall be deficient in a horse shall be considered as appearing on parade.(62)

§ 17. *And be it further enacted,* That the divisions, brigades, and regiments, may be ordered out for inspection or review by their commanding officers, at such times, as shall be thought expedient and necessary; and whenever a division is under arms, they shall be reviewed by the captain or lieutenant-general; when a brigade, by a major-general; and when a regiment, by a brigadier-general; and the captain-general shall direct the uniform, and badges of office, for the general-officers, their aids-de-camp, and brigade inspectors.(62)

Punishment for disorders, &c.

§ 18. *And be it further enacted,* That the commanding officer of each division, brigade, regiment, battalion or company, shall order the correcting and punishing of disorders or contempt on days of exercise, inspection or review, of which any non-commissioned officer or soldier, under their respective command, may be guilty, provided the punishment inflicted, be not greater than riding a wooden horse, for a time not exceeding one hour; or a fine not exceeding seven dollars :(67) and they shall have power to fix certain limits to their respective parades, within which no spectator shall enter, without liberty from the commanding officer; and in case any person shall intrude or offend, he shall be liable to be confined, in such way and manner as the commanding officer shall direct, during the continuance of the exercise.(62)

Limits of parades. Intruders may be confined.

Commandants of regiments may order musicians to meet, two days in a year, besides days of regimental exercise, and in case of neglect to impose a fine.

§ 19. *And be it further enacted,* That the commanding officer of any regiment shall, if he judge it expedient, order the musicians within the limits of his command, to assemble at such times and places as he shall direct, for practice and instruction, not exceeding two days in each year, exclusively of days of regimental exercise; and if any musician shall neglect or refuse to obey such order, he shall be liable to the same fine as is herein provided for like neglect or refusal, on days of company exercise;(66) which fine, and all other fines which by virtue of this act shall be incurred by the non-commissioned staff, shall be imposed by the commanding officer aforesaid. *Provided,* That such musician may avail himself of the provisions contained in the 16th paragraph, for privates to excuse himself from such fine.(62)

Redress.

Warrants for fines how directed and levied.

§ 20. *And be it further enacted,* That all warrants granted for the collection of any fine, imposed by virtue of this act, shall be directed to a constable of the town where the delinquent dwells,(68) which warrant shall be levied on the goods or chattels of the delinquent, if of the age of twenty-one years,(69) and for want of such goods or chattels, on the body of such delinquent;(70) and on the goods or chattels of the parent, master, or guardian of such delinquent, if under the

(61) Passed in October, 1802.

(67) Passed in May, 1741; altered at the revision in 1750; in May, 1782; and in October, 1792.

(66) Passed in October, 1799.

(68) Passed in May, 1801.

(69) Passed in May, 1741.

(70) Passed in October, 1782.

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age of twenty-one years ;(69) and for want of such goods or chattels, on the body of such parent, master or guardian, and him commit to gaol until such fine be paid, with lawful fees for service, as in case of execution for debt.(70) All fines, Fines how ap- imposed by commanding officers of companies, shall be ap- propriated. propriated to the use of the company, for purchasing and maintaining trumpets, drums and fifes,(71) and for providing blank cartridges for days of regimental or battalion review, of inspection, or parade, not exceeding ten cartridges for each non-commissioned officer and private who bears arms ;(62) and the overplus, if any be, shall be paid to the treasurer of Overplus where paid. the town to which such company belongs : and when such company shall be composed from two or more towns, the surplus shall be paid to the treasurers of such towns in proportion to the number of such non-commissioned officers, musicians, and privates from such towns respectively, at the time of such payments.(66) And all fines imposed by the commanding officer of a regiment or battalion, shall be paid to the treasurer of the town to which such commanding officer belongs.(62)

§ 21. And be it further enacted, That whenever the commanding officer of a company shall impose a fine, he shall give notice to the person fined, who shall have liberty, within ten days after such notice, to appeal to the commanding officer of the regiment : who, on giving notice and hearing the parties, may abate such fine ;(72) which notice and appeal shall be in writing ;(62) and if the commanding officer of the regiment shall not abate such fine, the officer imposing the same shall proceed to a collection.(72) That whenever the commanding officer of a company shall impose a fine, and the person so fined is claimed as belonging to another company, not of the same regiment, he shall have liberty of appeal to the officer commanding the brigade ; and if the person so fined is claimed as belonging to different brigades, he shall have right of appeal to the commanding officer of the division. *Provided always*, That the person so fined shall make his appeal, if to the commanding officer of brigade, within fifteen days ; and if to the commanding officer of division, within twenty days ; after being notified of such fine. And, in every case of appeal, it shall be the duty of the officer to whom the appeal is made, to cause notice to be given to the officer imposing the fine ; who shall thereupon stay the collection thereof until the appeal shall be determined, and if the fine be not abated, the officer imposing the same shall proceed to collection.(73) That all appeals shall be determined within thirty days after they are made.(74) That when a fine is

Officers imposing fines, to give notice to the person fined, who may appeal to the commandant of the regiment,

or, of the brigade, in case, &c. or, of the division, in case, &c. Time of appealing and mode of proceeding.

Officer imposing fine on notice to suspend collection until, &c.

(69) Passed in May, 1741.

(70) Passed in October, 1782.

(71) Fines were appropriated to procure drums, colours, &c. by the military act in the code of 1650.

(62) Passed in October, 1802.

(66) Passed in October, 1799.

(72) Passed in October, 1792.

(73) Passed in October, 1795 ; modified in October, 1802.

(74) Passed in October, 1802. By the act of October, 1799, the term was sixty days.

Appeals to be determined in 30 days.
Appeals to the captain general, when.
No other remedy.
Mode of accounting for fines.
Soldiers unable to furnish themselves with arms, to be supplied by selectmen.
Such arms, &c. to be the property of the town.
How deposited.
Quakers to be excused, &c.

imposed on any person belonging to either of the companies of guards, and when a person fined is claimed as belonging to any company of said guards, and to any other company ; and when contending claims of any kind shall arise between said companies of guards, the appeal shall be made, within twenty days, to the captain-general.(75) And that no person subject to military duty, on whom a fine is imposed, shall have any other remedy except as in this act is provided.(76)

§ 22. *And be it further enacted,* That it shall be the duty of commanding officers of companies, to make out an account current with the town or towns from which their respective companies are composed, on or before the first day of *November* annually, crediting the fines by them collected, and debiting the amount paid according to law, showing the balance, if any be, due the treasury of such town or towns, and, the same exhibit to the selectmen of such town or towns, and, in default thereof, shall forfeit and pay a fine of *five dollars* to and for the use of such towns respectively, to be recovered by the selectmen in action of debt brought on this statute.(76)

§ 23. *And be it further enacted,* That whenever any soldier shall be unable to equip himself with arms and accoutrements required by law, a certificate from two of the civil authority of the town to which he belongs, shall be sufficient evidence to the commanding officer of the company of such inability,(77) which certificate being given, no execution shall issue against him for any fine, which may have been imposed for any such deficiency. And, in every such case it shall be the duty of the selectmen of the town to provide such soldier with arms, and the whole or any part of such accoutrements as may be necessary, within forty days after such certificate shall be shown them, and, in default thereof, the said commanding officer shall, in his official capacity, have right of action against such selectmen, or any of them, to recover the value thereof ; any one assistant or justice of the peace to hear and determine the same, and grant execution thereon ; and in such case no appeal shall be allowed. And the commanding officer shall thereupon, without delay, procure such arms and accoutrements and they shall be the property of such town ; and all arms belonging to the town, shall, by the commanding officer of the company, be deposited in such place, as he may think proper, to be ready for such soldiers, as for the time being, may be unable to equip themselves ; and such officer shall be liable to pay therefor if lost through his neglect.(78)

§ 24. *And be it further enacted and provided,* That every such person as may belong to the society of quakers, and shall evince the fact to the commanding officer of the company within the limits of which he resides, by a certificate from the

(75) Passed in October, 1795 ; amplified in-October, 1802.
(76) Passed in October, 1803.
(77) Passed in May, 1798.
(78) Passed in October, 1792 ; modified in October, 1802.

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clerk of such society, shall be excused from equipping himself, and doing the military duty which he would otherwise be holden to do ; and in lieu thereof, shall pay annually, on the first Monday of *May*, to the commanding officer of such company, in trust, the sum of *four dollars and fifty cents* ; and, in default thereof, it shall be collected and applied as fines imposed by such commanding officer by law are.(79)

To pay four dollars and fifty cents per year.

§ 25. *And be it further enacted*, That each officer shall furnish himself with the rules of discipline, approved and established by congress, in their resolution of the 29th of *March* A. D. 1779.(80)

Officers to furnish themselves with the rules of discipline.

§ 26. *And be it further enacted*, That the captain-general or, in his absence, the next commanding officer is hereby authorized and empowered, on an alarm, invasion, or notice of the appearance of an enemy, either by sea or land, to order the whole, or any part of the militia to assemble, and the same to lead, order and employ for the assistance, or relief, of any of the inhabitants of this state attacked by an enemy or in danger thereof ; and generally to issue and publish such orders, as he shall judge expedient, to carry into execution the intent and design of this act ; and all subordinate officers are hereby required to yield entire obedience thereto. And the officers severally commanding divisions, brigades, regiments, battalions and companies, are hereby vested with the same authority within their respective commands : provided, that when any of them find it necessary to order out the force under his command, he shall forthwith dispatch intelligence, and the occasion thereof, together with his movements and operations to the captain-general, or any other his superior officer as may be judged most conducive to the public safety : and the officer receiving such intelligence, shall observe the same line of conduct, in order that it may, in the most expeditious way, arrive to the captain-general.(81) And when the militia, or any detachment thereof, are called out on actual service, under the provisions of this act, they shall be entitled to the same pay and rations as is, or shall be, provided for the army of the United States. And every non commissioned officer, musician or private refusing or neglecting to perform his tour of duty, in person or by substitute to the acceptance of the commanding officer of the company, shall pay the sum of *twelve dollars* for every such neglect or refusal, if the tour be for a term not exceeding one month, and in that proportion, if the tour be for a longer or shorter term ; to be collected by the commanding officer of the company, and to be disposed of, in the same manner as are other fines imposed by virtue of this act.(82)

Captain-general may assemble the militia.

Powers of other officers.

Intelligence to be given to the captain-general.

Pay and rations.

Fines for neglect, to perform a tour of duty.

(79) Passed in October, 1792. The sum to be paid was, at first, *three dollars thirty-four cents*. In October, 1802, it was raised to *four dollars, fifty cents* ; and the section was, in other respects, modified.

(80) Abstracted in October, 1802, from a section of the act of October, 1792.

(81) These provisions are derived from a section of the military act as revised in 1672. Various additions and modifications have since been made ; the principal of which were, at the revision in 1702 ; in May, 1641 ; in October, 1782 ; and in October, 1792.

(82) Passed in October, 1802.

Officers liable to be tried by court martial.

In what cases.

The court how composed, who to preside.

By whom appointed.

Judge advocate an officer of the line.

Mode of proceeding in detail, & notice in the several cases.

Oaths for the members of the court.

§ 27. *And be it further enacted, That general, field, commissioned, and staff officers, shall be subject to trial by general court martial, according to the usage and practice of war, for neglect of duty ; for contempt or disrespect to a superior officer ; for disobedience of orders ; and, generally, for unofficer like conduct ; which court martial shall consist of not less than nine nor more than thirteen members ;*(72) *and the senior officer, who shall always be of a rank superior to the officer on trial, shall preside :*(83) *the court martial for the trial of an officer, under the grade of a field officer, shall be appointed by the commanding officer of the brigade to which he belongs ; for the trial of an officer of the grade of a field officer, by the commanding officer of the division to which he belongs ; and for the trial of a general officer, by the captain-general.*(84) *That an officer of the line shall be appointed to do the duty of judge advocate ; and no other person whatever shall be admitted to solicit, prosecute or defend the arrested officer.*(85) *And whenever a general court martial shall be ordered, the orders shall designate the time and place for holding the same ; and the number and rank of the officers of which it shall be composed, as also the name of the judge advocate.*(86) *And, if the officer to be tried be a general officer, he shall be furnished with a copy of the order for said court, and a copy of the charges in arrest, by the adjutant-general or a brigade-inspector, thirty days before the sitting of said court inclusively ; and, if he be of or under the rank of field officer, shall be furnished with like copies twenty days before the sitting of said court, by a brigade-inspector or the adjutant of the regiment, to which the arrested officer belongs.*(87) *And it shall be the duty of the judge advocate to summon such witnesses, on the part of the state, as may be necessary, by subpoena from the officer ordering the court.*(88) *That the members of the court before they proceed to the trial of a cause, shall take the following oath to be administered by the judge advocate, viz. " You swear, that you will truly try and determine, according to your evidence, the matters depending between this state and the officer or officers now to be tried ; that you will not divulge the sentence of the court until the same shall be approved or disapproved pursuant to law ; neither will you, at any time, disclose the vote or opinion of any member of the court, unless required by due course of law : So help you God."* *And the judge advocate before he administers said oath, shall take the following oath, to be administered by the president of the court, viz. " You swear, that you will not, at any time whatever, disclose the*

(72) Passed in October, 1792.

(83) Passed in October, 1793.

(84) Abstracted in October, 1802, from a section of the act of October, 1792.

(85) By the act of October, 1792, the judge advocate might be an officer of the line or staff ; altered as at present in October, 1802.

(86) Passed in October, 1793 ; modified in October, 1802.

(87) Compiled, with some alterations, in October, 1802, from the acts of October, 1792, and 1793.

(88) Abstracted in October, 1802, from a section of the act of October, 1793.

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vote or opinion of any member of the court unless required by due course of law ; and that you will not divulge the sentence of the court, till the same shall be approved or disapproved pursuant to law ; and that you will faithfully and impartially do the duty of judge advocate in the court, according to the best of your ability : *So help you God.*"(89) And that all oaths which by this act may be necessary, and not otherwise provided for, may be administered by any general or field officer.(90)

Oath for the judge-advocate.

By whom administered.

§ 28. *And be it further enacted*, That sentences of courts martial shall be approved or disapproved by the captain-general. That if on trial the officer shall except against any one or more of the court, he shall state the ground of objection, and if it appear to the court sufficient, the member or members shall leave their seats, and if the number remaining be less than nine, the court shall be adjourned for a reasonable time, that the officer appointing the court may detail others to supply his or their place or places.(90) And no sentence of a court martial, shall inflict other punishment, than a reprimand, suspension from office for a time certain, cashiering, and cashiering with disability of holding any military office in this state ; and two thirds of the members shall concur in every sentence.(89) And in case an officer under arrest shall refuse or neglect to attend a court martial according to orders and notice given him, he shall, by said court be cashiered, with disability of ever after holding a military commission, unless reasonably prevented by sickness or otherwise, in which case the court shall have power to adjourn ; and notice thereof shall be given by the judge advocate to the arrested officer ; at least ten days before the day to which the court is adjourned.(91)

Sentences how approved. Exceptions to members of courts martial.

Extent of punishment.

Penalties for neglecting to attend.

§ 29. *And be it further enacted*, That if any witness duly summoned, shall refuse to obey such summons, he shall be committed to gaol in the county where he lives by warrant from the president of the court, directed to a sheriff, his deputy or constable within their respective jurisdictions, there to be held at his own expense, until he will conform and give evidence in the case, or be discharged in due course of law. And all witnesses summoned on the part of the state, for travel and attendance, and the judge advocate for summoning them, shall have the same fees, as are allowed in civil causes, to be taxed by the president of the court, and collected by warrant of distress under his hand, from the officer arrested ; in case of his refusal to appear, or being found guilty, and the sentence approved as herein provided ; which warrant shall be directed to the sheriff, his deputy or constable as aforesaid ; but in case the arrested officer be acquitted, the aforesaid expense shall be paid out of the treasury of this state.(92) And that the officers of said court shall be allowed

Attendance of witnesses enforced.

Fees—taxed, collected and paid.

(89) Passed in October, 1792 ; slightly varied in October, 1802.

(90) Passed in October, 1802.

(91) Passed in October, 1793.

(92) Passed in October, 1793 ; modified in October, 1802.

Expenses of courts martial how paid. *nine cents per mile for travel, to and from the place of holding said court ; and one dollar per day for each day during its sitting ; and a bill of the same, being taxed and signed by the president, shall be paid from the state treasury.*(90)

Repeal. § 30. *And be it further enacted,* That the statute entitled “ an act for forming and conducting the military force of this state, conformable to the act of congress, passed the 8th day of May, A. D. 1792 ;” and all statutes made in addition to or alteration thereof, be and the same are hereby repealed.

Proviso. *Provided nevertheless,* That all persons now holding appointments under the said statutes, shall continue to hold the same : *Provided also,* That all proceedings regularly commenced under the said statutes may be pursued to a final conclusion, such repeal notwithstanding.(90)

(90) Passed in October, 1802.

CHAP. II.

An Act in addition to an Act entitled “ An Act for forming and conducting the Military Force of this State.”

[Enacted in May, 1803.]

Musicians may enlist into the guards. § 1. *BE it enacted by the Governour and Council and House of Representatives in General Court assembled,* That the commanding officer of any company of the governor’s guards be, and he is hereby empowered to enlist from time to time, as may be necessary, from any of the militia companies of this state, suitable persons to be musicians for his company, any law, usage or custom to the contrary notwithstanding. *Provided nevertheless,* that no enlistment be made, from any militia company, of any person appointed and acting as a musician in such company.

Proviso.

Musicians may be ordered to assemble for practice and instruction. § 2. *Be it further enacted,* That the commanding officer of any such company of guards shall have power to order the musicians, or any part of them, belonging to his company, to assemble at such times and places as he shall direct, for practice and instruction, not exceeding, together with the number of days such musicians shall be called to do duty with their company, the whole number of days which such company may by law be called out for company exercise. And if any musician shall neglect or refuse to obey such order, he shall be liable to the same fine as is or shall be provided by law for non-attendance on days of ordinary company exercise : *Provided,* That such musician shall have the same right to appeal as is given to him by law in other cases.

Fine for neglect.

Right of appeal.

Commanding officers of guards may dismiss for § 3. *Be it further enacted,* That the commanding officer of any such company of guards be, and he is hereby authorized and empowered to dismiss from his company every non-commissioned officer, musician and private belonging thereto,